

Department of Justice  
Secondhand Dealer/Pawnbroker Unit

# *Secondhand/Pawnbroker Laws*

***July 2018***



*This information is not intended to be and should not be depended on as legal advice. This information is not designed to be inclusive. Laws are obtained from the Official Legislative Information website: <https://leginfo.legislature.ca.gov>*

## SECONDHAND DEALER AND PAWNBROKER LAWS

### TABLE OF CONTENTS

#### BUSINESS AND PROFESSIONS CODE

#### DIVISION 1.5

#### DENIAL, SUSPENSION AND REVOCATION OF LICENSES

	<u>Page</u>
<b>CHAPTER 1 - GENERAL PROVISIONS</b>	<b>12</b>
475. Denial of Licenses; grounds	12
476. Inapplicability of division to certain persons	12
477. Board; license	12
478. Application; material	12
<b>CHAPTER 2 - DENIAL OF LICENSES</b>	<b>13</b>
480. Acts disqualifying applicant	13
481. Criteria; crime or act substantially related to qualifications, etc.	14
482. Evaluation of rehabilitation; criteria	14
484. Attestation by other persons to good moral character; requirement for application for license	14
485. Procedure by board upon denial of application for license	14
486. Reapplication; informing applicant of requirements	14
487. Hearing	15
488. Hearing; decision	15
489. Denial of license for lack of good character	15
<b>CHAPTER 3 - SUSPENSION AND REVOCATION OF LICENSES</b>	<b>15</b>
490. Conviction of crime; relationship of crime to licensed activity; definition; time for board action	15-16
490.5. Noncompliance with support order or judgment	16
491. Information to ex-licensee	16
492. Disciplinary action or license denial notwithstanding drug diversion program; exception	16
493. Disciplinary action or license denial; convictions; inquiry	16-17
494. Interim order, notice; hearing; decision; judicial review noncompliance	17-19
<b>CHAPTER 4 - PUBLIC REPROVALS</b>	<b>19</b>
495. Authority; procedure	19
496. Violation of Section 123; denial, suspension or revocation of license	20
<b>CHAPTER 5 - EXAMINATION SECURITY</b>	<b>20</b>
498. License secured by fraud, deceit, or knowing misrepresentation	20
499. False statement in support of another person's application	20

## **TABLE OF CONTENTS**

### **DIVISION 8 SPECIAL BUSINESS REGULATION**

<b>CHAPTER 9 - SECONDHAND GOODS</b>	<b>20</b>
<hr/>	
<b>ARTICLE 1 – WATCHES</b>	<b>20</b>
<hr/>	
21500. Watch sellers	20
21501. Secondhand watch	20
21502. Exclusions	20
21503. Records; contents	20-21
21504. Records; retention	21
21505. Item identification as secondhand	21
21506. Invoice; contents	21
21507. Invoice; retention	21
21508. Advertising	21
21509. Violations; offense	21
<b>ARTICLE 2 – BUILDERS’ TOOLS</b>	<b>21</b>
<hr/>	
21550. Builders’ Tools	21
21551. Records; contents	22
21552. Shipping or transmitting outside the county	22
21553. Reporting requirements	22
21554. Report contents	22
21555. Reporting if no jurisdictional police department	22
21556. Violations; offense	22
<b>ARTICLE 3 – JUNK</b>	<b>23</b>
<hr/>	
21600. Junk	23
21601. Junk dealer	23
21602. Junk yard	23
21603. Exclusions; certain merchants	23
21604. Exclusions	23-24
21605. Junk dealer and recycler records; recycler defined	24
21606. Records; contents	24-25
21606.5. Inspection of records	25
21607. Records; preservation	25
21608. Violations; offense	25-26
21608.3. Unauthorized disclosure of personal identification information	26
21608.5. Nonferrous materials	26-28
21608.6. Newspapers and California Redemption Value (CRV) containers	28-29
21608.7. Theft alert notifications, commodity metals, etc.	29
21609. Property suspected of being stolen; peace officer placement of hold on property rights, duties and liabilities of junk dealer or recycler; costs	30-31
21609.1. Possession of fire hydrant or fire department connections, brass fittings	31
21609.5. Refillable stainless steel or aluminum alloy beer kegs	32

## **TABLE OF CONTENTS**

### **DIVISION 8 SPECIAL BUSINESS REGULATION**

<b>ARTICLE 4 – TANGIBLE PERSONAL PROPERTY</b>	<b>32</b>
21625. Legislative intent	32
21626. Secondhand dealer; coin dealer	32-33
21626.5. Secondhand dealer; exclusion	33
21627. Tangible personal property	33-34
21628. Report required; time	34-38
21628.2. Electronic reporting: firearms	38
21628.5. Business machine dealer; report of used machines and repairs	38-39
21629. Exceptions from article	39-40
21629.5. Application of article to property acquired by secondhand dealer with understanding or expectation of reacquisition	40
21630. Submission of report, no later than the next business day	40
21631. Report of all tangible personal property found in shop; retention of possession of property by dealer	40
21634. Report by chief of police or sheriff	41
21636. Retention of possession of property by dealer for 30-day period	41
21636.5. Seller repurchase; promise by dealer	41
21636.6. Unlawful act; advertising without license number	41
21637. Compliance with ordinances or other state law	42
21638. Effect of article upon enactment, amendment or enforcement of local ordinances	42
21638.5. Personal property pledged to pawnbroker; redemption by pledger	42
21640. Secondhand dealer; requirement for license	42
21641. Licenses; application; fee; grounds for denial; grant	42-43
21642. License; renewal; forfeiture; grounds	43-44
21642.5. Fees; electronic reporting system	44-45
21643. Transactions with a minor	45
21645. Violations; misdemeanor; punishment	46
21646. Violations or threatened violations; injunction	46
21647. Peace officer hold on property	46-49
<b>ARTICLE - RESALE OF GOODS</b>	<b>50</b>
21650. Adequate evidence of authority to sell	50
21651. Definitions	50
21652. Presentation to dealer of adequate evidence of authority to sell	50
21653. Violations	50

## **TABLE OF CONTENTS**

### **DIVISION 8 SPECIAL BUSINESS REGULATION**

<b>ARTICLE 6 – SWAP MEETS</b>		<b>50</b>
21660.	Legislative intent; application of article; uniform reports; ordinances and charters; land use and zoning regulations; secondhand dealers; operators and vendors	50-51
21661.	Definitions	51
21662.	Exclusions	52
21663.	Reports of property offered or displayed; contents; form	52-53
21663.1.	Swap meet; reporting exemptions	53
21664.	Distribution of forms to vendors; collection; submission to police chief or sheriff and to the Department of Justice; tax evasion; restricted use; vendors regularly offering or displaying property	54-55
21665.	Copies of reports; retention by operators; time; inspection; vendor's copy; availability for inspection during swap meet	55
21666.	Receipts for sales; prohibited personal property or merchandise; notice	55
21667.	Violations; misdemeanor; punishment	55
21668.	Waiver of requirements for swap meet operators and vendors	56
21669.	Swap meets conducted on government premises; procedures; operation by government entities for profit	56
21669.1.	Swap meets on government property; average daily attendance of 10,000 or more; requirements	56-57
<b>ARTICLE 7 - SPORTS TRADING CARDS</b>		<b>57</b>
21670.	Definitions	57
21671.	Alterations or refurbishments; violations; penalties	58
21672.	Unlicensed or counterfeit sports trading cards; manufacture, production, distribution, or sale; violations; penalties	58

## **TABLE OF CONTENTS**

### **FINANCIAL CODE- DIVISION 8-PAWNBROKERS**

<b>CHAPTER 1- GENERAL PROVISIONS</b>	<b>59</b>
<hr/>	
21000.7. Receiving goods as security for a loan	59
21001. Compensation	59
21002. Pledge property; vested property	59
21003. Term: month	59
21050. Exempt persons	59
21051. Loans of \$2,500 or more	59
<b>CHAPTER 2 - PAWNBROKER REGULATIONS</b>	<b>60</b>
<hr/>	
21200. Maximum Compensation	60
21200.1. Loan set up fee	60
21200.5. Schedule of charges; posting	60
21200.6. Handling and storage charges	61
21200.7. Posting of maximum compensation	61
21200.8. Processing charge for firearms	61
21200.9. Repurchase of property; no promise by pawnbroker to seller	61
21201. Written contract to be furnished borrower; contents; notice; retention redemption of pledged articles; foreclosure; sale of pledge property	61-62
21201.1. Loss of pawn ticket; verification of claimant; fee	63
21201.2. Notice of expiration of redemption; fee	63
21201.3. Written contract; item storage provision	63
21201.4. Determination of charges	63
21201.5. New loan on pledged property; replacement loan	63-64
21201.6. Pawn loan records; electronic contract	65
21202. Loans; written copy; accurate property description	65
21203. Loan redemption; off site storage	65
21204. Loan redemption; fees; charges	65
21205. Representatives of pawnbroker industry; members	65
21206. Inspection of records and accounts	66
21206.7. Receipt upon seizure of property alleged to be stolen	66
21206.8. Disposal of property stolen or embezzled; notice; time; liability	66-67
21207. Pledges of minors	67
21208. Reporting requirements	67
21209. Violations; misdemeanor	67

## **TABLE OF CONTENTS**

### **FINANCIAL CODE- DIVISION 8-PAWNBROKERS**

#### **CHAPTER 3 – LICENSURE** 67

---

21300.	Application for license; requirements; fees	67
21300.1	Unlicensed persons acting as pawnbroker	68
21301.	Renewal; grounds for forfeiture	68
21301.1.	Unlawful act; advertising without license number	69
21302.	Injunctions	69
21303.	Surety bond; renewal	69
21304.	Financial statement; liquid assets; application of section	69-70
21305.	Non Transfer or assignment	70
21306.	Exemption; second dealer license	70
21307.	Violations; penalty	70

### **PENAL CODE TITLE 10**

#### **MISCELLANEOUS PROCEEDINGS**

#### **CHAPTER 12 - DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED** 70

---

1407.	Property in custody of peace officer; holding subject to provisions of chapter	70
1408.	Property in custody of peace officer; order for delivery to owner; payment of expenses	70
1409.	Property in custody of magistrate; delivery to owner; proof of title; payment of expenses	71
1410.	Property not delivered to owner; proof of title; order for restoration by trial court	71
1411.	Unclaimed property delivered to county officer; notice to owner or holder of security interest; failure to claim; disposition	71-72
1412.	Money or property taken from defendant on arrest; duplicate receipts; filing or delivery of receipts	72
1413.	Person in charge of property section; record of property allegedly stolen embezzled; delivery to owner; review by magistrate; liability	72-73

## **TABLE OF CONTENTS**

### **PENAL CODE TITLE 13**

#### **OF CRIMES AGAINST PROPERTY**

<b>CHAPTER 5 – LARCENY</b>	<b>73</b>
484. Steal, defraud, personal property, fraudulent representation	73-74
484.1. Pawnbroker or secondhand dealer; false verification of ownership of property to receive money or valuable consideration; restitution	75
484b. Person who receives money for the purpose of obtaining or paying for services, willful failing to pay for services; misdemeanor; fine; imprisonment	75
484c. False voucher to obtain construction loan funds; embezzlement	75
484d. Definitions; cardholder, access card, expired access card, card issuer; retailer, revoked access card, counterfeit access card, traffic, card making equipment	75-76
484e. Intent to defraud, sells, transfers, conveys access card; grand theft	76
484f. Counterfeit access card; attempts to use counterfeit access card; forgery	77
484g. Intent to defraud; obtains money, goods, services without the consent of an access card or altered access card; forged, expired, or revoked; guilty of theft or grand theft	77
484h. Retailer or other person who, with intent to defraud	77
484i. Every person who possesses an incomplete access card, with intent to complete it without the consent of the issuer; guilty of a misdemeanor	78
484j. Person who publishes the number of code of an existing, canceled, revoked, expired or nonexistent access card, personal identification number, computer password, access code, debit card number; intent to defraud	78
485. Lost property without efforts to find the owner; theft	78
486. Theft is two degrees, the first grand theft; second petty theft	78
487. Grand Theft	78-79
487a. Theft of animals; carcass; guilty of grand theft	79
487b. Person who converts real estate value of \$250, or more into personal property with felonious intent steals; grand theft	80
487c. Person who converts real estate of \$250, or less into personal property with felonious intent steals; petty theft	80
487d. Person who feloniously steals, or attempts to steal from any mining claim, tunnel, undercurrent, sulfurate machine, gold dust; grand theft	80
487e. Person who feloniously steals a dog, value exceeding \$950; grand theft	80
487f. Person who feloniously steals a dog, value not exceeding \$950; petty theft	80
487g. Person who steals any animal for purposes of sale, medical research; slaughter, or other commercial use; one year in jail or state prison	80
487h. Person who steals cargo of value exceeding \$950; grand theft	80
487i. Person who defrauds housing program more than \$400; grand theft	80
487j. Person who steals, takes, or carries away copper materials exceeding \$950	81
488. Theft in other cases is petty theft	81



## **TABLE OF CONTENTS**

### **PENAL CODE TITLE 13**

#### **OF CRIMES AGAINST PROPERTY**

<b>CHAPTER 5 – LARCENY</b>	<b>81</b>
489. Grand theft firearm; other violations; imprisonment	81
490. Petty theft fine \$1000 and/or county jail six months	81
490a. Law or statute; larceny, embezzlement, stealing interpreted as theft	81
490.1. Petty theft; value of money, labor, real or personal property not to exceed \$50 may be misdemeanor or an infraction	81
490.2. Obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed \$950; prior convictions	82
490.5. Petty theft; merchant, theater, library facility definitions	82-86
490.6. Amusement park employee detain if violating lawful rules	86
490.7. Unauthorized taking newspapers; sell or barter	86-87
491. Personal property of dogs; value	87
492. Stolen evidence of debt or other secured debt	87
493. Stolen ticket; railroad vessel or public conveyance	87
494. Property taken is an instrument for the payment for money, evidence of debt	87
495. Item taken is any fixture or part of the realty; severed at the time of taking	88
496. Receiving stolen property; knowledge; concealment; punishment	88-89
496a. Junk and secondhand dealers; purchasing metals used in transportation or public utility service; due diligence to confirm the legal right to sell requirement to maintain record; punishment	89
496b. Person being a dealer or collector of second-hand books or literary material	89
496c. Person who copy, transcribe, photograph, unpublished books, real property certifying or insuring titles to real property without consent	90
496d. Person who buys or receives any motor vehicle, trailer, or vessel steals or has knowledge of stolen vessel; punishment	90
496e. Person who is engaged in salvage, recycling, purchase, or sale of scrap metal previously owned by public agency, city, county, private utility; knowing the property is stolen fails to report possession	91
497. Person who steals or embezzles property from out of state or out of another country	91
498. Definitions: person, utility, customer, utility service, divert, tamper	91-92
499. Person who having been convicted of previous conviction 10851 Vehicle Code	93
499b. Person without the permission takes any bicycle or vessel; punishment	93
499c. Definitions: access, article, benefit, computer system, network, program, copy representing, trade secret; punishment	93-94
499d. Person who operates or take an aircraft not of his own; punishment	95
500. Person who receives money for the purpose of transmitting the same or its equivalent to foreign countries; fails; punishment	95
501. Embezzlement or larceny of money, bank notes, stock, securities;	95-96
502. Unauthorized access to computers, computer technology, data systems	96-101

## **TABLE OF CONTENTS**

### **PENAL CODE TITLE 13**

#### **OF CRIMES AGAINST PROPERTY**

<b>CHAPTER 5 – LARCENY</b>	<b>102</b>
502.01. Property subject to forfeiture; punishment	102-105
502.5. Deed of trust for any real property, defraud or injure the mortgagee	105
502.6. Defraud, possess a scanning device, encoded magnetic strip	106
502.7. Defraud, providing telephone or telegraph service	106-108
502.8. Advertises illegal telecommunications equipment	108-109
502.9. Conviction, if victim is elder or dependent person	109
<b>CHAPTER 8 – FALSE PERSONATION AND CHEATS</b>	
528. Person who falsely personates another; felony	110
528.5. Person who impersonates another by electronic means; internet website	110
529. Person who falsely personates another in private or official capacity	110
529a. Person who manufactures, sells, offers documents: birth certificate, certificate of baptism, false or counterfeit, intent to deceive	111
529.5. Person who manufactures, sells, offers for sale government-issued identification card or driver’s license; punishment	111
529.7. Person who obtains or assists in obtaining driver’s license or any other official document from the Department of Vehicles; punishment	111
530. Person who falsely personates another and receives money or property	112
530.5. Person who obtains personal identifying information for unlawful purpose to obtain credit, goods, services, real property, medical information, sells personal identifying information; punishment	112-113
530.55 Definition of personal identifying information	113
530.6. Identify theft	113-114
530.7. Victim of identity theft; court order	114
530.8. Victim of identity theft; loan, credit cards, bank transactions	115-116
531. Person who is a party to any fraudulent of any lands, tenements, interests, contract or conveyance with intent to deceive; punishment	116
531a. Person who with intent to defraud knowingly executes convey real property	116
532. Person who knowingly by false or fraudulent representation or pretense defrauds money, labor, or property, credit; punishment	117
532a. False statements in writing, firm or corporation	117-118
532b. Person representing themselves as a veteran or ex-servicemen; soliciting	118-119
532c. Person, firm, corporation, co-partnership offers or gives winning numbers	119
532d. Soliciting or attempts to solicit receives money or property for charitable, religious, falsity or negligently	119-120
532e. Person who receives money for the purpose of paying for services	120
532f. Mortgage Fraud with the intent to defraud	120-122

## **TABLE OF CONTENTS**

### **PENAL CODE TITLE 13**

#### **OF CRIMES AGAINST PROPERTY**

<b>CHAPTER 8 – FALSE PERSONATION AND CHEATS</b>	<b>122</b>
533. Selling, bartering, or disposing of any tract of land; intent to defraud previous or subsequent purchasers	122
534. Person who falsely and fraudulently represents themselves as married or registered domestic partnership	122
535. Person who obtains money or property, fraudulent sale	122
536. Commission merchant, broker, agent, factor or consignee who corruptly, make false statement as to the price obtained for property or entrusted for sale	123
536a. Written accounting for property or entrusted for sale	123
537. Person who obtains accommodations at a hotel, inn, restaurant, boarding, with intent to defraud or left the premises without paying	123-124
537b. Person who obtains any livery hire or feed stable, kept for profit without paying; intent to defraud proprietor	124
537c. Every proprietor having the management of livery stable, feed, boarding, etc. a horse, mare, animal, or buggy, vehicle should not take possession without consent of the owner.	124
537e. Articles from which serial numbers or identification marks have been removed, defaced, covered, altered, or destroyed; punishment	125
537f. Requirements: resale of storage battery, lighting or ignition of automobiles	126
537g. Defaces, covers, alters or destroys National Crime Information owner number	126
538. Defraud mortgagee, removal of mortgaged property	126
538a. Person uses another person name in newspaper	126
538b. Person who deceives by wearing badge, lapel, insignia, religious order	127
538c. Person who attaches or inserts an unauthorized advertisement; redistributes	127
538d. Impersonating peace officer; uniform; badge; certificate; selling uniforms	127-129
538e. Impersonating member of the fire department; badge; certificate; emblem	129-130
538f. Impersonating employee of public utility district; punishment	131
538g. Impersonating city, county, special district employee; uniform; badge; ID card	131
538.5. Transmitting by wire, radio, television, pictures trade secrets, credit data	131
539. Intent to defraud: person has completed community service as a condition of probation	132

### **PENAL CODE TITLE 15**

<b>CHAPTER 2 – OF OTHER AND MISCELLANEOUS OFFENSES</b>	<b>132</b>
653. Tattoo's under the age of 18	132
653o. Unlawful to import dead body or any part of a polar bear, leopard, Ocelot, tiger, cheetah, jaguar, sable antelope, wolf, zebra, whale, cobra, python, sea turtle, colobus monkey, kangaroo, vicuan, sea otter, feral horse, dolphin or porpoise, Spanish lynx, or elephant; punishment	132-133

**BUSINESS AND PROFESSIONS CODE**

**DIVISION 1.5 – DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

**CHAPTER 1 GENERAL PROVISIONS**

**475.** (a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

**476.** (a) Except as provided in subdivision (b), nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

(b) Section 494.5 shall apply to the licensure of persons authorized to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3, and the licensure or registration of persons pursuant to Chapter 5 (commencing with Section 19800) of Division 8 or pursuant to Division 9 (commencing with Section 23000).

**477.** As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

**478.** (a) As used in this division, "application" includes the original documents or writings filed and any other supporting documents or writings including supporting documents provided or filed contemporaneously, or later, in support of the application whether provided or filed by the applicant or by any other person in support of the application.

(b) As used in this division, "material" includes a statement or omission substantially related to the qualifications, functions, or duties of the business or profession.

**BUSINESS AND PROFESSIONS CODE**

**DIVISION 1.5 – DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

**CHAPTER 2 DENIAL OF LICENSES**

**480.** (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

**BUSINESS AND PROFESSIONS CODE**

**DIVISION 1.5 – DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

**CHAPTER 2 DENIAL OF LICENSES**

**481.** Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

**482.** Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

**484.** No person applying for licensure under this code shall be required to submit to any licensing board any attestation by other persons to his good moral character.

**485.** Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

- (a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

**486.** Where the board has denied an application for a license under this chapter or Section 496, it shall, in its decision, or in its notice under subdivision (b) of Section 485, inform the applicant of the following:

- (a) The earliest date on which the applicant may reapply for a license which shall be one year from the effective date of the decision, or service of the notice under subdivision (b) of Section 485, unless the board prescribes an earlier date or a later date is prescribed by another statute.
- (b) That all competent evidence of rehabilitation presented will be considered upon a reapplication. Along with the decision, or the notice under subdivision (b) of Section 485, the board shall serve a copy of the criteria relating to rehabilitation formulated under Section 482.

**BUSINESS AND PROFESSIONS CODE**

**DIVISION 1.5 – DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

**CHAPTER 2 DENIAL OF LICENSES**

**487.** If a hearing is requested by the applicant, the board shall conduct such hearing within 90 days from the date the hearing is requested unless the applicant shall request or agree in writing to a postponement or continuance of the hearing. Notwithstanding the above, the Office of Administrative Hearings may order, or on a showing of good cause, grant a request for, up to 45 additional days within which to conduct a hearing, except in cases involving alleged examination or licensing fraud, in which cases the period may be up to 180 days. In no case shall more than two such orders be made or requests be granted.

**488.** Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(a) Grant the license effective upon completion of all licensing requirements by the applicant.

(b) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(c) Deny the license.

(d) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

**489.** Any agency in the department which is authorized by law to deny an application for a license upon the grounds specified in Section 480 or 496, may without a hearing deny an application upon any of those grounds, if within one year previously, and after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that agency has denied an application from the same applicant upon the same ground.

**CHAPTER 3 SUSPENSION AND REVOCATION OF LICENSES**

**490.** (a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

**BUSINESS AND PROFESSIONS CODE**

**DIVISION 1.5 – DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

**CHAPTER 3 SUSPENSION AND REVOCATION OF LICENSES**

An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

**490.5.** A board may suspend a license pursuant to Section 17520 of the Family Code if a licensee is not in compliance with a child support order or judgment.

**491.** Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall:

- (a) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.
- (b) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

**492.** Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest. This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

**493.** Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license,



**BUSINESS AND PROFESSIONS CODE**

**DIVISION 1.5 – DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

**CHAPTER 3 SUSPENSION AND REVOCATION OF LICENSES**

upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question. As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”

**494.** (a) A board or an administrative law judge sitting alone, as provided in subdivision (h), may, upon petition, issue an interim order suspending any licentiate or imposing license restrictions, including, but not limited to, mandatory biological fluid testing, supervision, or remedial training. The petition shall include affidavits that demonstrate, to the satisfaction of the board, both of the following:

(1) The licentiate has engaged in acts or omissions constituting a violation of this code or has been convicted of a crime substantially related to the licensed activity.

(2) Permitting the licentiate to continue to engage in the licensed activity, or permitting the licentiate to continue in the licensed activity without restrictions, would endanger the public health, safety, or welfare.

(b) No interim order provided for in this section shall be issued without notice to the licentiate unless it appears from the petition and supporting documents that serious injury would result to the public before the matter could be heard on notice.

(c) Except as provided in subdivision (b), the licentiate shall be given at least 15 days’ notice of the hearing on the petition for an interim order. The notice shall include documents submitted to the board in support of the petition. If the order was initially issued without notice as provided in subdivision (b), the licentiate shall be entitled to a hearing on the petition within 20 days of the issuance of the interim order without notice. The licentiate shall be given notice of the hearing within two days after issuance of the initial interim order, and shall receive all documents in support of the petition. The failure of the board to provide a hearing within 20 days following the issuance of the interim order without notice, unless the licentiate waives his or her right to the hearing, shall result in the dissolution of the interim order by operation of law.

(d) At the hearing on the petition for an interim order, the licentiate may:

(1) Be represented by counsel.

(2) Have a record made of the proceedings, copies of which shall be available to the licentiate upon payment of costs computed in accordance with the provisions for transcript costs for judicial review contained in Section 11523 of the Government Code.

(3) Present affidavits and other documentary evidence.

**BUSINESS AND PROFESSIONS CODE**

**DIVISION 1.5 – DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

**CHAPTER 3 SUSPENSION AND REVOCATION OF LICENSES**

(4) Present oral argument.

(e) The board, or an administrative law judge sitting alone as provided in subdivision (h), shall issue a decision on the petition for interim order within five business days following submission of the matter. The standard of proof required to obtain an interim order pursuant to this section shall be a preponderance of the evidence standard. If the interim order was previously issued without notice, the board shall determine whether the order shall remain in effect, be dissolved, or modified.

(f) The board shall file an accusation within 15 days of the issuance of an interim order. In the case of an interim order issued without notice, the time shall run from the date of the order issued after the noticed hearing. If the licentiate files a Notice of Defense, the hearing shall be held within 30 days of the agency's receipt of the Notice of Defense. A decision shall be rendered on the accusation no later than 30 days after submission of the matter. Failure to comply with any of the requirements in this subdivision shall dissolve the interim order by operation of law.

(g) Interim orders shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and shall be heard only in the superior court in and for the Counties of Sacramento, San Francisco, Los Angeles, or San Diego. The review of an interim order shall be limited to a determination of whether the board abused its discretion in the issuance of the interim order. Abuse of discretion is established if the respondent board has not proceeded in the manner required by law, or if the court determines that the interim order is not supported by substantial evidence in light of the whole record.

(h) The board may, in its sole discretion, delegate the hearing on any petition for an interim order to an administrative law judge in the Office of Administrative Hearings. If the board hears the noticed petition itself, an administrative law judge shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the board on matters of law. The board shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the administrative law judge. When the petition has been delegated to an administrative law judge, he or she shall sit alone and exercise all of the powers of the board relating to the conduct of the hearing. A decision issued by an administrative law judge sitting alone shall be final when it is filed with the board. If the administrative law judge issues an interim order without notice, he or she shall preside at the noticed hearing, unless unavailable, in which case another administrative law judge may hear the matter. The decision of the administrative law judge sitting alone on the petition for an interim order is final, subject only to judicial review in accordance with subdivision (g).

(i) Failure to comply with an interim order issued pursuant to subdivision (a) or (b) shall constitute a separate cause for disciplinary action against any licentiate, and may be heard at, and as a part of, the noticed hearing provided for in subdivision (f).

## **BUSINESS AND PROFESSIONS CODE**

### **DIVISION 1.5 – DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

#### **CHAPTER 3 SUSPENSION AND REVOCATION OF LICENSES**

Allegations of noncompliance with the interim order may be filed at any time prior to the rendering of a decision on the accusation. Violation of the interim order is established upon proof that the licentiate was on notice of the interim order and its terms, and that the order was in effect at the time of the violation. The finding of a violation of an interim order made at the hearing on the accusation shall be reviewed as a part of any review of a final decision of the agency.

If the interim order issued by the agency provides for anything less than a complete suspension of the licentiate from his or her business or profession, and the licentiate violates the interim order prior to the hearing on the accusation provided for in subdivision (f), the agency may, upon notice to the licentiate and proof of violation, modify or expand the interim order.

(j) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section. A certified record of the conviction shall be conclusive evidence of the fact that the conviction occurred. A board may take action under this section notwithstanding the fact that an appeal of the conviction may be taken.

(k) The interim orders provided for by this section shall be in addition to, and not a limitation on, the authority to seek injunctive relief provided in any other provision of law.

(l) In the case of a board, a petition for an interim order may be filed by the executive officer. In the case of a bureau or program, a petition may be filed by the chief or program administrator, as the case may be.

(m) "Board," as used in this section, shall include any agency described in Section 22, and any allied health agency within the jurisdiction of the Medical Board of California. Board shall also include the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. The provisions of this section shall not be applicable to the Medical Board of California, the Board of Podiatric Medicine, or the State Athletic Commission.

#### **CHAPTER 4 PUBLIC REPROVALS**

**495.** Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproof, public reproof and suspension, or public reproof and revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or, in the case of a licensee or certificate holder under the jurisdiction of the State Department of Health Services, in accordance with Section 100171 of the Health and Safety Code.

**BUSINESS AND PROFESSIONS CODE**

**DIVISION 1.5 – DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

**CHAPTER 4 PUBLIC REPROVALS**

**496.** A board may deny, suspend, revoke, or otherwise restrict a license on the ground that an applicant or licensee has violated Section 123 pertaining to subversion of licensing examinations.

**CHAPTER 5 EXAMINATION SECURITY**

**498.** A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

**499.** A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee, in support of another person’s application for license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the board regarding the application.

**DIVISION 8 SPECIAL BUSINESS REGULATIONS**

**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 1 WATCHES**

**21500.** As used in this article:

- (a) “Person” means an individual, firm, partnership, association, limited liability company, or corporation engaged in the business of selling watches.
- (b) “Consumer” means an individual, firm, partnership, association or corporation who buys for his or her own use, or for the use of another, but not for resale.

**21501.** Except as provided in this article “secondhand watch” means any of the following:

- (a) A watch which, as a whole, or the case thereof, or the movement thereof, has been sold to a consumer.
- (b) Any watch whose case or movement, serial numbers or other distinguishing numbers or identification marks have been erased, defaced, removed, altered or covered.

**21502.** A watch which is returned to the same person who sold the watch to the consumer, either through an exchange or for credit, within one year from the date of the original sale, if such seller keeps a written record of such sales, is not subject to the provisions of this article, unless the case, movement, serial number or other distinguishing identification marks have been removed.

**21503.** The written record referred to in this article shall contain all of the following information:

- (a) The name and address of the consumer.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 1 WATCHES**

- (b) The date of the sale to the consumer.
- (c) The name of the watch or its maker.
- (d) The serial number of the watch, if any, on its case or movement or any other distinguishing numbers or identification marks.

**21504.** The written record referred to in this article shall be kept for at least three years from the date of the original sale of the watch. Such record shall be open for inspection during all business hours by the district attorney or his representative, of the county in which the vendor is engaged in business.

**21505.** Any person who sells, exchanges, offers to sell or exchange, exposes for sale or exchange, or possesses with intent to sell or exchange, a secondhand watch, shall affix and keep affixed to the same a tag with the words "secondhand" legibly written or printed thereon in the English language.

**21506.** Any person who sells a secondhand watch shall deliver to the vendee a written invoice setting forth the name and address of the vendor, the name and address of the vendee, the date of the sale, the name of the watch or its maker, and the serial numbers, if any, or other distinguishing numbers or identification marks on its case and movement. If the serial numbers, or other distinguishing numbers or identification marks have been erased, defaced, removed, altered or covered, this shall be set forth in the invoice.

**21507.** A duplicate of the invoice required by this article shall be kept on file by the vendor of the secondhand watch for at least one year from the date of the sale thereof and shall be open to inspection during all business hours by the district attorney, or his representative, of the county in which the vendor is engaged in business.

**21508.** Any person advertising in any manner secondhand watches for sale shall state clearly in such advertising that the watches so advertised are secondhand watches.

**21509.** Violation of this article is a misdemeanor.

**ARTICLE 2 BUILDERS' TOOLS**

**21550.** "Person" as used in this article includes firm and corporation.  
"Builders' tools" as used in this chapter includes all tools customarily used in the construction, alteration, or repair of buildings.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 2 BUILDERS' TOOLS**

**21551.** Every person dealing in secondhand goods, wares or merchandise, either as pawnbroker or otherwise, who buys or receives as a pledge any builders' tools shall keep a register in which shall be entered all of the following:

- (a) The place, date and hour of the sale or pledge of any such tools.
- (b) The name, address and description of the seller or pledgor.
- (c) A description of the tools, including all numbers, letters, names and other identification marks appearing thereon.
- (d) The name and address of the individual to whom such tools were sold or pledged.

**21552.** Whenever any person referred to in this article ships or otherwise transmits any builders' tools bought or received as a pledge, to any place outside the county in which the tools were so bought or so received, such person shall enter in the register required to be kept by this article the date on which such tools were shipped or otherwise transmitted, and the name and the place of business or residence of the person to whom such tools were so shipped or transmitted.

**21553.** Every person referred to in this article shall each day, except legal holidays, deliver a full, true and complete copy of the register required to be kept by this article to the chief of police, city marshal, town marshal, or other head of the police department of the city, city and county, town, or other municipality or district wherein such builders' tools were bought or received in pledge.

**21554.** The report shall include references to all builders' tools bought or received as a pledge or shipped or otherwise transmitted since the preceding report.

**21555.** If there is no police department in the municipality or district in which builders' tools are bought or received in pledge, or from which they are shipped or otherwise transmitted, the report required by this article shall be delivered or mailed each day, except legal holidays, to the sheriff of the county.

**21556.** Any person who violates this chapter is guilty of a misdemeanor.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 3 JUNK**

**21600.** As used in this article, “junk” means any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any and all secondhand and used furniture, pallets, or other personal property, other than livestock, or parts or portions thereof. As used in this section, “scrap metals and alloys” includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

**21601.** As used in this article, “junk dealer” includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.

**21602.** As used in this article, “junk yard” includes any yard, plot, space, inclosure, building or any other place where junk is collected, stored, gathered together and kept.

**21603.** This article shall not apply to any of the following:

- (a) Secondhand furniture merchants.
- (b) Pawnbrokers.
- (c) Secondhand car dealers or merchants in connection with automobile and motor vehicle sales agencies but not carried on and conducted in conjunction with a junk yard.
- (d) Persons engaged in the business of selling new automobile tires or batteries or other equipment taking in part payment used articles of the same kind and thereafter selling or disposing of the same.
- (e) Secondhand oil well supply and equipment dealers not conducting or carrying on their business in connection with a junk yard.
- (f) Secondhand clothing merchants and ragpickers.

**21604.** Except as otherwise provided in this article, this article does not apply to:

- (a) Any person who buys or sells junk acquired in the conduct of any business other than that of a junk dealer or recycler.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 3 JUNK**

(b) Except as provided in Section 21609.1, those purchases of scrap metal by a junk dealer or recycler when the payment for the scrap metal is by check issued to the company represented as being the owner of the scrap.

(c) Scrap metal purchased or received from another junk dealer or recycler who has recorded, reported, and held the material as required. The purchase or receipt shall also be exempt from further holding or reporting provided that the selling party gives the buyer written assurance of this fact. The seller shall be held responsible for any failure to report or hold.

**21605.** (a) Every junk dealer and every recycler in this state is hereby required to keep a written record of all sales and purchases made in the course of his or her business.

(b) For purposes of this article, "recycler" means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code, who buys or sells scrap metal that constitutes junk, as defined in Section 21600.

**21606.** (a) Every junk dealer and every recycler shall set out in the written record required by this article all of the following:

(1) The place and date of each sale or purchase of junk made in the conduct of his or her business as a junk dealer or recycler.

(2) One of the following methods of identification:

(A) The name, valid driver's license number and state of issue or California- or United States-issued identification card number.

(B) The name, identification number, and country of issue from a passport used for identification and the address from an additional item of identification that also bears the seller's name.

(C) The name and identification number from a Matricula Consular used for identification and the address from an additional item of identification that also bears the seller's name.

(3) The vehicle license number, including the state of issue, of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business.

(4) The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business.

(5) A description of the item or items of junk purchased or sold, including the item type and quantity, and identification number, if visible.

(6) A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained the junk from, as shown on a signed transfer document.



**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 3 JUNK**

(b) Any person who makes, or causes to be made, any false or fictitious statement regarding any information required by this section, is guilty of a misdemeanor.

(c) Every junk dealer and every recycler shall report the information required in subdivision (a) to the chief of police or to the sheriff in the same manner as described in Section 21628.

**21606.5.** Every junk dealer or recycler shall, during normal business hours, allow periodic inspection of any premises maintained and any junk thereon for the purpose of determining compliance with the recordkeeping requirements of this article, and shall during those hours produce his or her records of sales and purchases, except as provided in subparagraph (B) of paragraph (6) of subdivision (a) of Section 21608.5, and all property purchased incident to those transactions which is in the possession of the junk dealer or recycler for inspection by any of the following persons:

(a) An officer holding a warrant authorizing him or her to search for personal property.

(b) A person appointed by the sheriff of a county or appointed by the head of the police department of a city.

(c) An officer holding a court order directing him or her to examine the records or property.

(d) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

**21607.** Every junk dealer and recycler shall preserve the written record required by this article for at least two years after making the final entry of any purchase or sale of junk or scrap metals and alloys as defined in Section 21600.

**21608.** (a) A junk dealer or recycler who fails in any respect to keep the written record required by this article, or to set out in that written record any matter required by this article to be set out therein, is guilty of a misdemeanor.

Every junk dealer or recycler who refuses, upon demand pursuant to Section 21606.5, to exhibit the written record required by this article, or who destroys that record within two years after making the final entry of a purchase or sale of junk therein, is guilty of a misdemeanor.

(b) Any knowing and willful violation of subdivision (a) shall be punishable as follows:

(1) For a first offense, by a fine of not less than one thousand dollars (\$1,000), or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 3 JUNK**

(2) For a second offense, by a fine of not less than two thousand dollars (\$2,000), or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court may order the defendant to stop engaging in business as a junk dealer or recycler for a period not to exceed 30 days.

(3) For a third or any subsequent offense, by a fine of not less than four thousand dollars (\$4,000), or by imprisonment in the county jail for not less than six months, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court shall order the defendant to stop engaging in business as a junk dealer or recycler for not less than one year.

(c) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

**21608.3.** (a) Any unauthorized disclosure of personal identification information collected from a seller by a junk dealer or recycler is prohibited, and any such disclosure shall render the violator liable for a civil fine of up to five thousand dollars (\$5,000).

(b) This section shall become operative on December 1, 2008.

**21608.5.** (a) A junk dealer or recycler in this state shall not provide payment for nonferrous material unless, in addition to meeting the written record requirements of Sections 21605 and 21606, all of the following requirements are met:

(1) The payment for the material is made by cash or check. The check may be mailed to the seller at the address provided pursuant to paragraph (3) or the cash or check may be collected by the seller from the junk dealer or recycler on or after the third business day after the date of sale.

(2) At the time of sale, the junk dealer or recycler obtains a clear photograph or video of the seller.

(3) (A) Except as provided in subparagraph (B), the junk dealer or recycler obtains a copy of the valid driver's license of the seller containing a photograph and an address of the seller, a copy of a state or federal government-issued identification card containing a photograph and an address of the seller, a passport from any other country in addition to another item of identification bearing an address of the seller, or a Matricula Consular in addition to another item of identification bearing an address of the seller.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 3 JUNK**

(B) If the seller prefers to have the check for the material mailed to an alternative address, other than a post office box, the junk dealer or recycler shall obtain a copy of a driver's license or identification card described in subparagraph (A), and a gas or electric utility bill addressed to the seller at that alternative address with a payment due date no more than two months prior to the date of sale. For purposes of this paragraph, "alternative address" means an address that is different from the address appearing on the seller's driver's license or identification card.

(4) The junk dealer or recycler obtains a clear photograph or video of the nonferrous material being purchased.

(5) The junk dealer or recycler shall preserve the information obtained pursuant to this subdivision for a period of two years after the date of sale.

(6) (A) The junk dealer or recycler obtains a thumbprint of the seller, as prescribed by the Department of Justice. The junk dealer or recycler shall keep this thumbprint with the information obtained under this subdivision and shall preserve the thumbprint in either hardcopy or electronic format for a period of two years after the date of sale.

(B) Inspection or seizure of the thumbprint shall only be performed by a peace officer acting within the scope of his or her authority in response to a criminal search warrant signed by a magistrate and served on the junk dealer or recycler by the peace officer. Probable cause for the issuance of that warrant must be based upon a theft specifically involving the transaction for which the thumbprint was given.

(b) Paragraph (1) of subdivision (a) shall not apply if, during any three-month period commencing on or after the effective date of this section, the junk dealer or recycler completes five or more separate transactions per month, on five or more separate days per month, with the seller and, in order for paragraph (1) of subdivision (a) to continue to be inapplicable, the seller must continue to complete five or more separate transactions per month with the junk dealer or recycler.

(c) This section shall not apply if, on the date of sale, the junk dealer or recycler has on file or receives all of the following information:

(1) The name, physical business address, and business telephone number of the seller's business.

(2) The business license number or tax identification number of the seller's business.

(3) A copy of the valid driver's license of the person delivering the nonferrous material on behalf of the seller to the junk dealer or the recycler.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 3 JUNK**

(d) (1) This section shall not apply to the purchase of nonferrous material having a value of not more than twenty dollars (\$20) in a single transaction, when the majority of the transaction is for the redemption of beverage containers under the California Beverage Container Recycling and Litter Reduction Act, as set forth in Division 12.1 (commencing with Section 14500) of the Public Resources Code.

(2) Materials made of copper or copper alloys shall not be purchased under this subdivision.

(e) This section shall not apply to coin dealers or to automobile dismantlers, as defined in Section 220 of the Vehicle Code.

(f) For the purposes of this section, "nonferrous material" means copper, copper alloys, stainless steel, or aluminum, but does not include beverage containers, as defined in Section 14505 of the Public Resources Code, that are subject to a redemption payment pursuant to Section 14560 of the Public Resources Code.

(g) This section is intended to occupy the entire field of law related to junk dealer or recycler transactions involving nonferrous material. However, a city or county ordinance, or a city and county ordinance, relating to the subject matter of this section is not in conflict with this section if the ordinance is passed by a two-thirds vote and it can be demonstrated by clear and convincing evidence that the ordinance is both necessary and addresses a unique problem within and specific to the jurisdiction of the ordinance that cannot effectively be addressed under this section.

**21608.6.** (a) A junk dealer or recycler, as defined in subdivision (f), in this state shall not provide payment for newspaper, as defined in Section 538c of the Penal Code, or for California Redemption Value (CRV) containers unless, in addition to meeting the written record requirements of Sections 21605 and 21606, all of the following requirements are met:

(1) The payment for the newspaper or for the CRV containers is made by check or by other electronic transfer from the junk dealer or recycler to the seller. A recycler, if authorized by regulations adopted pursuant to Division 12.1 (commencing with Section 14500) of the Public Resources Code, may provide payment for CRV containers through a voucher that is immediately redeemable for cash.

(2) The junk dealer or recycler obtains and records a valid, documented address for the seller by obtaining a copy of the valid driver's license of the seller containing a photograph and an address of the seller, or a copy of a state or federal government-issued identification card containing a photograph and an address of the seller, or other valid identification containing the seller's address, such as utility bills in the seller's name. The junk dealer or recycler shall preserve the photograph and the address or the copies obtained pursuant to this paragraph for a period of two years after the date of sale.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 3 JUNK**

(b) The requirements of paragraph (1) of subdivision (a) shall not apply if, during any three-month period commencing on or after the effective date of this section, the junk dealer or recycler completes five or more separate transactions per month with the seller, and in order for the requirements of paragraph (1) of subdivision (a) to continue to be inapplicable, the seller must continue to complete five or more separate transactions per month with the junk dealer or recycler.

(c) This section shall not apply if, on the date of sale, the junk dealer or recycler has on file or receives all of the following information:

(1) The name, physical business address, and business telephone number of the seller's business.

(2) The business license number or tax identification number of the seller's business.

(3) A copy of the valid driver's license or a copy of a state or federal government-issued identification card containing a photograph and an address of the person delivering newspaper or CRV containers on behalf of the seller to the junk dealer or the recycler.

(d) Any unauthorized disclosure of personal identification information collected from a seller by a junk dealer or recycler is prohibited, and any violation of this prohibition is subject to a civil fine not to exceed five thousand dollars (\$5,000).

(e) This section shall not apply to the payment for newspaper having a value of fifty dollars (\$50) or less in a single transaction or CRV containers having a value of one hundred dollars (\$100) or less in a single transaction.

(f) This section shall only apply in jurisdictions that offer curbside pickup of materials that include newspaper and CRV containers.

(g) Notwithstanding Section 21605, for purposes of this section, "recycler" means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

**21608.7.** (a) A junk dealer or recycler shall request to receive theft alert notifications regarding the theft of commodity metals, including, but not limited to, ferrous metal, copper, brass, aluminum, nickel, stainless steel, and alloys, in the junk dealer's or recycler's geographic region from the theft alert system maintained by the Institute of Scrap Recycling Industries, Inc., or its successor.

(b) The requirement in subdivision (a) does not apply if the institute or its successor requires payment for use of the theft alert system.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 3 JUNK**

**21609. (a)** Whenever a peace officer has probable cause to believe that property in the possession of a junk dealer or recycler is stolen, in lieu of seizing the property, the peace officer as defined in subdivision (b) of Section 21606.5, at his or her option, may place a hold on the property for a period not to exceed 90 days. When a peace officer places a hold on the property, the peace officer shall give the junk dealer or recycler a written notice at the time the hold is placed, describing the item or items to be held plus the case number. During that period the junk dealer or recycler shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by a peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member. Except as specifically set forth in this section, a junk dealer or recycler shall not be subject to civil liability for compliance with this section.

(b) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is required by a peace officer in a criminal investigation, the junk dealer or recycler, upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any peace officer upon the request of any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member.

(c) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:

(1) With respect to the property being held, if the law enforcement agency has no knowledge of the property on hold being reported as stolen, the property shall be released upon written notice to the junk dealer or recycler. The notice shall be provided in a timely fashion.

(2) If the law enforcement agency has knowledge that the property has been reported stolen, the law enforcement agency shall notify the person who reported the stolen property of the name and address of the junk dealer or recycler holding the property and authorize the release of the property to that person.

The law enforcement agency that placed the property on hold shall release the hold after 60 days has elapsed following the delivery of the notice to the person who reported the property stolen.

(3) If a victim seeks to recover property that is subject to a hold, the junk dealer or recycler shall advise the victim of the name and badge number of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If the property is not required to be held pursuant to a criminal prosecution the hold shall be released.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 3 JUNK**

(d) Upon conviction of a person for the theft of property placed on hold pursuant to this section, the court shall order the defendant to do both of the following:

- (1) Pay the junk dealer or recycler reasonable costs for the storage of the property.
- (2) Pay the victim for both the value of the property stolen and any reasonable collateral damage caused in the commission of the theft.

(e) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

**21609.1.** (a) No junk dealer or recycler shall possess any reasonably recognizable, disassembled, or inoperative fire hydrant or fire department connection, including, but not limited to, reasonably recognizable brass fittings and parts, or any manhole cover or lid or reasonably recognizable part of a manhole cover or lid, or any backflow device or connection to that device or reasonably recognizable part of that device, that was owned or previously owned by an agency, in the absence of a written certification on the letterhead of the agency owning or previously owning the material described in the certification that the agency has either sold the material described or is offering the material for sale, salvage, or recycling, and that the person possessing the certification and identified in the certification is authorized to negotiate the sale of that material.

(b) A junk dealer or recycler who unknowingly takes possession of one or more of the items listed in subdivision (a) as part of a load of otherwise nonprohibited materials without a written certification has a duty to notify the appropriate law enforcement agency by the end of the next business day upon discovery of the prohibited material. Written certification shall relieve the junk dealer or recycler from any civil or criminal penalty for possession of the prohibited material. The prohibited material shall be set aside and not sold pending a determination made by a law enforcement agency pursuant to Section 21609.

(c) For purposes of this section, the following definitions apply:

- (1) "Agency" means a public agency, city, county, city and county, special district, or private utility regulated by the Public Utilities Commission.
- (2) "Appropriate law enforcement agency" means either of the following:
  - (A) The police chief of the city, or his or her designee, if the item or items listed in subdivision (a) are located within the territorial limits of an incorporated city.
  - (B) The sheriff of the county or his or her designee if the item or items listed are located within the county but outside the territorial limits of an incorporated city.
- (3) "Written certification" means a certification in written form by the junk dealer or recycler to a law enforcement agency, including electronic mail, facsimile, or a letter delivered in person or by certified mail.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 3 JUNK**

**21609.5.** (a) Except as provided in subdivision (b), no junk dealer or recycler may purchase or receive refillable stainless steel or aluminum alloy beer kegs marked with an indicia of ownership from any person or entity other than the indicated owner. For purposes of this section, “indicia of ownership” means words, symbols, or registered trademarks printed, stamped, etched, attached, or otherwise displayed on the exterior surface of the beer keg that reasonably identifies the owner.

(b) If the seller is not the indicated owner, a junk dealer or recycler may purchase or receive refillable stainless steel or aluminum alloy beer kegs only if the seller or transferor provides a receipt from the indicated owner verifying the seller’s current ownership or a document indicating that the seller or transferor is authorized by the indicated owner to sell or transfer the beer kegs. Copies of these documents shall be maintained by the junk dealer or recycler as part of the written record of the transaction.

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

**21625.** It is the intent of the Legislature in enacting this article to curtail the dissemination of stolen property and to facilitate the recovery of stolen property by means of a uniform, statewide, state-administered program of regulation of persons whose principal business is the buying, selling, trading, auctioning, or taking in pawn of tangible personal property and to aid the State Board of Equalization to detect possible sales tax evasion.

Further, it is the intent of the Legislature in enacting this article to require the uniform statewide reporting of tangible personal property acquired by persons whose principal business is the buying, selling, trading, auctioning, or taking in pawn of tangible personal property, unless the property or the transaction is specifically exempt herein, for the purpose of correlating these reports with other reports of city, county, and city and county law enforcement agencies and further utilizing the services of the Department of Justice to aid in tracing and recovering stolen property.

Further, it is the intent of the Legislature that this article shall not be superseded or supplanted by the provisions of any ordinance or charter of any city, county, or city and county.

**21626.** (a) A “secondhand dealer,” as used in this article, means and includes any person, copartnership, firm, or corporation whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property.



**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

A “secondhand dealer” does not include a “coin dealer” or participants at gun shows or events, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, who are not required to be licensed pursuant to Sections 26700 to 26915, inclusive, of the Penal Code, who are acting in compliance with the requirements of Sections 26500 to 26585, inclusive, and 27545 of the Penal Code, and who are not a “Gun Show Trader,” as described in Sections 16620 and 26525 of the Penal Code.

(b) As used in this section, a “coin dealer” means any person, firm, partnership, or corporation whose principal business is the buying, selling, and trading of coins, monetized bullion, or commercial grade ingots of gold, or silver, or other precious metals.

**21626.5.** “Secondhand dealer,” as used in this article, does not include either of the following:

(a) Any person who performs the services of an auctioneer for a fee or salary.

(b) Any person whose business is limited to the reconditioning and selling of major household appliances, provided all the following conditions are met:

(1) The person does not trade, take in pawn, accept for drop-off, accept as a trade-in, accept for sale on consignment, accept for auction, auction, or buy, except in bulk, the appliances.

(2) The person does not perform repair services for owners of appliances unless the appliance was purchased from the person.

(3) The person has never been convicted of the crime of attempting to receive or receiving stolen property or any other theft-related crime.

**21627.** (a) As used in this article, “tangible personal property” means all secondhand tangible personal property that bears a serial number or personalized initials or inscription or that, at the time it is acquired by the secondhand dealer, bears evidence of having had a serial number or personalized initials or inscription.

(b) “Tangible personal property” also means the following:

(1) All tangible personal property, new or used, including motor vehicles, received in pledge as security for a loan by a pawnbroker.

(2) All tangible personal property that bears a serial number or personalized initials or inscription and that is purchased by a secondhand dealer or a pawnbroker or that, at the time of the purchase, bears evidence of having had a serial number or personalized initials or inscription.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

(3) All tangible personal property that the Attorney General statistically determines through the most recent Department of Justice crime data, updated pursuant to Section 13010 of the Penal Code, to constitute a significant class of stolen goods. A list of that personal property shall be supplied by the Attorney General to all local law enforcement agencies and posted on the Attorney General's Internet Web site. That list shall be updated annually by the Attorney General, beginning January 1, 2016, to ensure that it addresses current problems with stolen goods.

(c) As used in this article, "tangible personal property" does not include any new goods or merchandise purchased from a bona fide manufacturer or distributor or wholesaler of the new goods or merchandise by a secondhand dealer. For the purposes of this article, however, a secondhand dealer shall retain for one year from the date of purchase, and shall make available for inspection by any law enforcement officer, any receipt, invoice, bill of sale, or other evidence of purchase of the new goods or merchandise.

(d) As used in this article, "tangible personal property" does not include coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals. "Commercial grade ingots" means 0.99 fine or finer ingots of gold, silver, palladium, or platinum, or 0.925 fine sterling silver art bars and medallions, provided that the ingots, art bars, and medallions are marked by the refiner or fabricator as to their assay fineness.

(e) For purposes of this article, a "significant class of stolen goods" means those items determined through the Department of Justice's most recent OpenJustice Web portal update to constitute more than 10 percent of property reported stolen in the calendar year preceding the annual posting of the list of significant classes of stolen goods.

**21628.** (a) Every secondhand dealer or coin dealer described in Section 21626 shall report daily, or no later than the next business day excluding weekends and holidays after receipt or purchase of secondhand tangible personal property, to CAPSS, all secondhand tangible personal property, except for firearms, which he or she has purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning, in accordance with the provisions of Section 21630 and subdivision (d). The report shall be legible, prepared in English, completed where applicable, and include only the following information:

- (1) The name and current address of the intended seller or pledger of the property.
- (2) The identification of the intended seller or pledger. The identification of the seller or pledger of the property shall be verified by the person taking the information, who may use technology, including, but not limited to, cameras or software, or both, to obtain information and verify identity remotely.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, provided that the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, and, where applicable, is signed by the person, and bears a serial or other identifying number:

- (A) A passport of the United States.
- (B) A driver's license issued by any state or Canada.
- (C) An identification card issued by any state.
- (D) An identification card issued by the United States.
- (E) A passport from any other country in addition to another item of identification bearing an address.
- (F) A Matricula Consular in addition to another item of identification bearing an address.

(3) (A) A property description. The property description shall be a complete and reasonably accurate description of the property, including, but not limited to, the following: serial number, personalized inscriptions, and other identifying marks or symbols, owner-applied numbers, the size, color, material, and, if known by the secondhand dealer, the manufacturer's pattern name. The property description shall include the brand and model name or number of the item if known to, or reasonably ascertainable by, the secondhand dealer. The property description shall include a plain text description of the item generally accepted by the secondhand industry. Watches need not be disassembled when special skill or special tools are required to obtain the required information, unless specifically requested to do so by a peace officer. A special tool does not include a penknife, caseknife, or similar instrument and disassembling a watch with a penknife, caseknife, or similar instrument does not constitute a special skill. In all instances where the required information may be obtained by removal of a watchband, then the watchband shall be removed. The cost associated with opening the watch shall be borne by the pawnbroker, secondhand dealer, or customer.

(B) A secondhand dealer shall utilize in the article field either an article field descriptor, the format of which shall be provided by the Department of Justice, or a properly spelled and non-abbreviated plain text descriptor commonly recognized and utilized by the pawn and secondhand dealer industry. The lack of an article field descriptor provided by the Department of Justice shall not be relevant to any determination as to whether the secondhand dealer has received evidence of authority to sell or pledge the property pursuant to paragraph (1) of subdivision (b) so long as the secondhand dealer reports an article field descriptor consistent with this subdivision.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

(C) In the case of the receipt or purchase of a handheld electronic device by a secondhand dealer, the serial number reported pursuant to subparagraph (A) may be the International Mobile Station Equipment Identity (IMEI), the mobile equipment identifier (MEID), or other unique identifying number assigned to that device by the device manufacturer. If none of these identifying numbers are available by the time period required for reporting pursuant to this subdivision, the report shall be updated with the IMEI, MEID, or other unique identifying number assigned to that device by the device manufacturer as soon as reasonably possible but no later than 10 working days after receipt or purchase of the handheld electronic device.

(D) For the purpose of this paragraph, “handheld electronic device” means any portable device that is capable of creating, receiving, accessing, or storing electronic data or communications and includes, but is not limited to, a cellular phone, smartphone, or tablet.

(4) A certification by the intended seller or pledger that he or she is the owner of the property or has the authority of the owner to sell or pledge the property.

(5) A certification by the intended seller or pledger that to his or her knowledge and belief the information is true and complete.

(6) A legible fingerprint taken from the intended seller or pledger, as prescribed by the Department of Justice. This requirement does not apply to a coin dealer, unless required pursuant to local regulation.

(7) A report submitted by a pawnbroker or secondhand dealer shall be deemed to have been accepted by the Department of Justice if a good faith effort has been made to supply all of the required information. An error or omission on the report shall be noted, and the reporting pawnbroker or secondhand dealer shall be notified of the error or omission by the Department of Justice. A reporting pawnbroker or secondhand dealer shall have three business days from that notice to amend or correct the report before being subject to any enforcement violation.

(b) (1) When a secondhand dealer complies with all of the provisions of this section, he or she shall be deemed to have received from the seller or pledger adequate evidence of authority to sell or pledge the property for all purposes included in this article, and Division 8 (commencing with Section 21000) of the Financial Code.

(2) In enacting this subdivision, it is the intent of the Legislature that its provisions shall not adversely affect the implementation of, or prosecution under, any provision of the Penal Code.

(c) Any person who conducts business as a secondhand dealer at any gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, outside the jurisdiction that issued the secondhand dealer license in accordance with subdivision

(d) of Section 21641, may be required to submit a duplicate of the transaction report prepared pursuant to this section to the local law enforcement agency where the gun show or event is conducted.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

(d) (1) The Department of Justice shall recognize and accept the properly spelled and non-abbreviated plain text property descriptors generally accepted in the pawn and secondhand industries provided by pawnbrokers and secondhand dealers, as has been the longstanding practice of chiefs of police and sheriffs when they had received paper reports from pawnbrokers and secondhand dealers.

(2) A report required of a secondhand dealer pursuant to this section shall be transmitted by electronic means to CAPSS by the secondhand dealer.

(3) Unless specifically identified in this section, the Department of Justice, chiefs of police, and sheriffs shall not require a secondhand dealer to include any additional information concerning the seller, the pledger, or the property received by the secondhand dealer in the report required by this section.

(4) If there is a future change to the reporting requirements of CAPSS that substantively alters the reporting standards provided by this article, those changes shall be implemented and operated in compliance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). In implementing and operating a future change to CAPSS, the Department of Justice, chiefs of police, and sheriffs shall comply with Sections 21637 and 21638. Notwithstanding any other law, the Department of Justice shall not take any action with respect to the implementation, operation, or maintenance of CAPSS required by this chapter by adoption of an emergency regulation.

(5) On or before July 1, 2017, the Department of Justice shall convene a meeting with the Department of Technology to discuss issues pertaining to any proposed changes or upgrades to CAPSS required by this chapter. The Department of Technology may provide technological assistance for ongoing improvements, updates, or changes to CAPSS required by this chapter, as requested.

(6) A coin dealer shall report the information required by this section under the reporting standard described in paragraph (1) on a form developed by the Attorney General that the coin dealer shall transmit each day by facsimile transmission or by mail to the chief of police or sheriff. A transaction shall consist of not more than one item.

(7) For purposes of this subdivision, "item" shall mean any single physical article. However, with respect to a commonly accepted grouping of articles that are purchased as a set, including, but not limited to, a pair of earrings or place settings of china, silverware, or other tableware, "item" shall mean that commonly accepted grouping.

(8) Nothing in this subdivision shall be construed as excepting a secondhand dealer from the fingerprinting requirement of paragraph (6) of subdivision (a).

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

(e) Nothing in this section shall be construed to exempt a person licensed as a firearms dealer pursuant to Sections 26700 to 26915, inclusive, of the Penal Code from the reporting requirements for the delivery of firearms pursuant to Sections 26700 to 26915, inclusive, of the Penal Code.

**21628.2** (a) For purposes of this section, the “department” shall mean the Department of Justice.

(b) Every secondhand dealer described in Section 21626 shall, in a format prescribed by the department, and on the day of the transaction, electronically report to the department each firearm purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning. The secondhand dealer shall retain a copy of the report submitted to the department and make it available for inspection by the department, any peace officer, or any local law enforcement employee who is authorized by Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6 of the Penal Code to inspect a firearms transaction record.

(c) The department may retain secondhand dealer reports to determine whether a firearm taken in by a secondhand dealer has been reported lost or stolen. If the department’s records indicate that the firearm is lost or stolen, the department shall notify the law enforcement agency that entered the information in the department’s records and a law enforcement agency with jurisdiction over the secondhand dealer’s business location about the status of the firearm. The Dealers’ Record of Sale shall be retained by the department pursuant to Section 11106 of the Penal Code.

(d) All information in the secondhand dealer report of each firearm described in subdivision (a) shall be electronically provided by the department to the secure mailbox of the local law enforcement agency described in Section 21630 within one working day of receipt by the department.

**21628.5** (a) Every business machine dealer shall report all used business machines which he has purchased, taken in trade, or accepted for sale or consignment, from an individual, to the chief of police or to the sheriff in accordance with the provisions of Section 21628 and Section 21630. Every business machine dealer shall report all used business machines which he has repaired, if required to do so by the chief of police or the sheriff in accordance with the provisions of Section 21628 and Section 21630.

No report of repair shall be required from a dealer servicing or repairing a machine in the possession of the owner to whom that dealer sold that machine when it was new.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

(b) As used in this section, the term “business machines” includes, but is not limited to, typewriters, adding machines, check-writing devices, cash registers, calculators, addressing machines, copying and accounting equipment, letter-sorting and folding devices, and recording equipment, but does not include office furniture or fixtures.

**21629.** The provisions of this article shall not apply to any tangible personal property which has been:

(a) Acquired from another secondhand dealer; provided the secondhand dealer selling or trading the tangible personal property states in writing under penalty of perjury, along with a description of the property, on an interdealer transfer form or an itemized bill of sale, that the report or reports required by this article have been properly made and submitted by that dealer. A copy of the form or the itemized bill of sale shall be delivered to the acquiring dealer at the time the transaction occurs. Interdealer transfer forms shall be provided at actual cost by the Department of Justice.

The dealers involved in the transaction shall retain their copy of the interdealer transfer form or itemized bill of sale for a period of three years as a matter of record, and shall make them available for inspection by any law enforcement officer.

(b) Acquired in a nonjudicial sale, transfer, assignment, assignment for the benefit of creditors, or consignment of the assets or stock in trade, in bulk, or a substantial part thereof, of an industrial or commercial enterprise for purposes of voluntary dissolution or liquidation of the seller’s business, or for the purpose of disposing of an excessive quantity of personal property; or which has been acquired in a nonjudicial sale or transfer from an owner of his or her entire household of personal property, or a substantial part thereof; provided, the secondhand dealer retains in his or her place of business for a period of three years a copy of the bill of sale, receipt, inventory list, or other transfer document as a matter of record which shall be made available for inspection by any law enforcement officer; and provided further, that the secondhand dealer notifies the chief of police or the sheriff that exemption from reporting is being claimed under this subdivision. “Industrial or commercial enterprise” and “owner” as used in this subdivision do not include a secondhand dealer;

(c) Acquired in a sale made by any public officer in his or her official capacity, trustee in bankruptcy, executor, administrator, receiver, or public official acting under judicial process or authority, or which has been acquired in a sale made upon the execution of, or by virtue of, any process issued by a court, or under the provisions of Division 7 (commencing with Section 7101) of the Commercial Code;

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

(d) Acquired as the surplus property of the United States government or of a state, city, county, city and county, municipal corporation, or public district and which after requisition or acquisition by the United States government or by a state, city, county, city and county, municipal corporation, or public district has never thereafter been sold at retail; and

(e) Reported by a secondhand dealer as an acquisition or a purchase, or which has been reported as destroyed or otherwise disposed of, (1) to a state agency by the authority of any other law of this State; or (2) to a city, county, or city and county officer or agency by the authority of any other law of this State or a city, county, or city and county ordinance.

(f) Acquired by persons, firms, partnerships, or corporations who buy, sell, or trade precious metals, whether in the form of coins or commercial grade ingots, who: (1) are designated contract markets by or registered with the Commodity Futures Trading Commission under the Federal Commodities Exchange Act and acting pursuant thereto; or (2) infrequently conduct their business directly with members of the general public. As used in this subdivision, "infrequently" means occasional and without regularity.

**21629.5** Notwithstanding Section 21629, the provisions of this article shall apply to any tangible personal property which has been acquired by a secondhand dealer with the understanding or expectation that such property would later be reacquired by the transferor or an agent thereof.

**21630.** (a) A secondhand dealer or coin dealer shall electronically transmit to CAPSS no later than the next business day after the date of transaction excluding weekends and holidays or, if not then possible due to an electrical, telecommunications, or other malfunction, as soon as reasonable thereafter, the report of acquisition of tangible personal property as required by Section 21628.

(b) Notwithstanding Section 21628, submission of a tangible property acquisition report is not required if the report of an acquisition of the same property from the same customer has been submitted within the preceding 12 months.

**21631.** Notwithstanding any other provisions of law, all tangible personal property that is found in the shop of a pawnbroker, secondhand dealer, or coin dealer, doing business under a California secondhand dealer's license, shall be reported as required under subdivisions (c) and (d) of Section 21628, including any additional information required by Section 21628 that is known by the reporting person, and shall be held as required under Section 21636 on forms as required under Section 21633. If no claim is made for the property for a period of 60 days after it is reported, the pawnbroker, secondhand dealer, or coin dealer may treat the property as property regularly acquired in the due course of business.



**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

**21634.** The chief of police or the sheriff who receives a report on a form filed pursuant to the provisions of this article shall daily submit the original to the Department of Justice.

**21636.** (a) Every secondhand dealer and coin dealer shall retain in his or her possession for a period of 30 days all tangible personal property reported under Sections 21628, 21629, and 21630, and commencing July 1, 2010, Section 21628.2. The 30-day holding period with respect to this tangible personal property shall commence with the date the report of its acquisition was made to the chief of police or to the sheriff by the secondhand dealer and coin dealer. The chief of police or the sheriff may for good cause, as specified by the Department of Justice, or the Department of Justice may for good cause authorize prior disposition of any property described in a specific report, provided that a secondhand dealer who disposes of tangible personal property pursuant to that authorization shall report the sale thereof to the chief of police or the sheriff or the Department of Justice.

(b) During the 30-day holding period specified in subdivision (a) every secondhand dealer and coin dealer shall produce any tangible personal property reported under Sections 21628, 21629, and 21630, and commencing July 1, 2010, Section 21628.2, for inspection by any peace officer or employee designated by the chief of police or sheriff or the Department of Justice.

(c) Property subject to inspection as specified in subdivision (b) and property held in pawn, which is stored off the business premises of the licensee, shall, upon request for inspection, be produced at the licensee's business premises within one business day of a request.

(d) Any person who conducts business as a secondhand dealer at any gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, outside the jurisdiction that issued the secondhand dealer license in accordance with subdivision (d) of Section 21641, may be required to submit for inspection, as specified in subdivision (b), any firearm acquired at a gun show or event within 48 hours of the request of the local law enforcement agency in the jurisdiction where the gun show or event was conducted at a location specified by the local law enforcement agency.

**21636.5** No secondhand dealer or coin dealer shall promise a seller of tangible property that the seller may repurchase property sold to the secondhand dealer or coin dealer.

**21636.6** It is unlawful for any person, who is required to be licensed under Section 21640, to publicly advertise any matter relating to the business for which the license is required without including the license number.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

**21637.** Nothing herein contained shall be deemed to excuse compliance with the provisions of any city, county, or city and county ordinance or any other state law pertaining to or covering the reporting, holding, or releasing of tangible personal property, not inconsistent with the provisions of this article, except that no city, county, or city and county or any other state agency shall adopt the following:

(a) Holding, reporting, or identification requirements for transactions involving coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals.

(b) Identification, holding, or reporting requirements for the acquisition of tangible personal property, in the ordinary course of business, by pawnbrokers and secondhand dealers, other than as set forth in Sections 21628, 21630, 21633, and 21636 of this code, and commencing July 1, 2010, Section 21628.2 of this code, and Section 21208 of the Financial Code.

**21638.** The provisions of this article shall not prohibit enactment, amendment, or enforcement by any city, county, or city and county of any local ordinance relating to a secondhand dealer or coin dealer which is not inconsistent with the provisions of this article, except that no city, county, or city and county, or any other state agency shall adopt the following:

(a) Holding, reporting, or identification requirements for transactions involving coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals.

(b) Identification, holding, or reporting requirements for the acquisition of tangible personal property, in the ordinary course of business, by pawnbrokers and secondhand dealers, other than as set forth in Sections 21628, 21630, 21633, and 21636 of this code, and commencing July 1, 2010, Section 21628.2 of this code, and Section 21208 of the Financial Code.

**21638.5** Sections 21636, 21637, and 21638, insofar as they apply to holding periods for personal property, are not applicable to personal property pledged to a pawnbroker with respect to the redemption of personal property by the pledgor.

**21640.** It is unlawful for any person to engage in the business of secondhand dealer, as defined in Section 21626, without being licensed as provided in this article.

**21641.** (a) The chief of police, the sheriff, or, where appropriate, the police commission, shall accept an application for and grant a license permitting the licensee to engage in the business of secondhand dealer, as defined in Section 21626, to an applicant who has not been convicted of an attempt to receive stolen property or any other offense involving stolen property. Prior to the granting of a license, the licensing authority shall submit the application to the Department of Justice.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

If the Department of Justice does not comment on the application within 30 days thereafter, the licensing authority may grant the applicant a license. All forms for application and licensure, and license renewal, shall be prescribed and provided by the Department of Justice. A fee shall be charged to the applicant by the Department of Justice as specified in Section 21642.5. The licensing authority shall collect the fee and transmit the fee to the Department of Justice. In addition, the police chief, the sheriff, or, where appropriate, the police commission, may charge a fee to the applicant not to exceed the actual costs incurred to process the application and to collect and transmit the fee charged by the Department of Justice.

(b) For the purposes of this section, “convicted” means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(c) Notwithstanding subdivisions (a) and (b), no person shall be denied a secondhand dealer’s license solely on the grounds that he or she violated any provision contained in this article or Article 5 (commencing with Section 21650), or any provision contained in Chapter 2 (commencing with Section 21200) of Division 8 of the Financial Code, unless the violation demonstrates a pattern of conduct.

(d) Any person licensed as a firearms dealer pursuant to Sections 26700 to 26915, inclusive, of the Penal Code, who is conducting business at gun shows or events pursuant to subdivision (b) of Section 26805 of the Penal Code, and who has a valid secondhand dealer license granted by the appropriate local authorities in the jurisdiction where the firearms dealer license has been granted, shall be authorized to conduct business as a secondhand dealer at any gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, without regard to the jurisdiction within this state that issued the secondhand dealer license pursuant to subdivision (a) of this section. No additional fees or separate secondhand dealer license shall be required by any agency having jurisdiction over the locality where the gun show or event is conducted. However, the person shall otherwise be subject to, and comply with, the requirements of this article when he or she acts as a secondhand dealer at the gun show or event to the same extent as if he or she were licensed as a secondhand dealer in the jurisdiction in which the gun show or event is being conducted.

**21642.** (a) A license granted pursuant to Section 21641 shall be renewable the second year from the date of issue, and every other year thereafter, upon the filing of a renewal application and the payment of a license renewal fee specified by the licensing authority, as described in this subdivision. The Department of Justice shall also charge a fee, as specified in Section 21642.5. The licensing authority shall collect the fee and transmit the fee and a copy of the renewed license to the Department of Justice.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

(b) The license shall be subject to forfeiture by the licensing authority and the licensee's activities as a secondhand dealer shall be subject to being enjoined pursuant to Section 21646 for breach of any of the following conditions:

(1) The business shall be carried on only at the location designated on the license. The license shall designate all locations where property belonging to the business is stored. Property of the business may be stored at locations not designated on the license only with the written consent of the local licensing authority.

(2) The license or a copy thereof, certified by the licensing authority, shall be displayed on the premises in plain view of the public.

(3) The licensee shall not engage in any act which the licensee knows to be in violation of this article.

(4) The licensee shall not be convicted of an attempt to receive stolen property or any other offense involving stolen property. For the purposes of this paragraph, "convicted" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the chief of police, the sheriff, or, where appropriate, the police commission is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(c) Notwithstanding subdivisions (a) and (b), no person shall have his or her renewal application for a secondhand dealer's license denied, nor shall his or her secondhand dealer's license be forfeited solely on the grounds that he or she violated any provision contained in this article or Article 5 (commencing with Section 21650), or any provision contained in Chapter 2 (commencing with Section 21200) of Division 8 of the Financial Code, unless the violation demonstrates a pattern of conduct.

**21642.5.** (a) The Department of Justice shall require each applicant for an initial license under Section 21641 of this code or Section 21300 of the Financial Code and each applicant for renewal of a license under Section 21642 of this code or Section 21301 of the Financial Code to pay a fee not to exceed three hundred dollars (\$300), but in no event exceeding the costs described in subdivision (b), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.

(b) The fees assessed pursuant to subdivision (a) shall be no more than necessary to cover the reasonable regulatory costs to the department of doing all of the following:

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

(1) Processing initial license applications under Section 21641 of this code and Section 21300 of the Financial Code.

(2) Processing renewal applications under Section 21642 of this code and Section 21301 of the Financial Code.

(3) Implementing, operating, and maintaining CAPSS described in Section 21627.5.

(c) All licensees holding a license issued before the effective date of the act adding this section pursuant to Section 21641 or 21642 of this code or Section 21300 or 21301 of the Financial Code shall, within 120 days after enactment of the act adding this section in the 2011–12 Regular Session, in addition to any fee required under subdivision (a), pay a fee not to exceed two hundred eighty-eight dollars (\$288) to the Department of Justice.

(d) The fees paid pursuant to subdivisions (a) and (c) shall be deposited in the Secondhand Dealer and Pawnbroker Fund, which is hereby established in the State Treasury. The revenue in the fund shall, upon appropriation by the Legislature, be used by the Department of Justice for the purpose of paying for the costs described in paragraphs (1) to (3), inclusive, of subdivision (b), except that the revenue received pursuant to subdivision (c) shall, upon appropriation by the Legislature, be used by the Department of Justice for the purpose of paying for the costs described in paragraph (3) of subdivision (b).

(e) Applicants described in subdivision (a) shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and contents of a record of state convictions and state arrests and information as to the existence and contents of a record of state arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(1) The Department of Justice shall prepare a state-level response pursuant to paragraph (1) of subdivision (l) of Section 11105 of the Penal Code.

(2) The Department of Justice shall provide subsequent notification service pursuant to Section 11105.2 of the Penal Code for applicants described in this subdivision.

(3) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this subdivision. The fee revenues shall be deposited in the Fingerprint Fee Account and shall, upon appropriation by the Legislature, be used by the department for the purposes of paying the costs associated with this subdivision.

**21643.** No transactions that require reporting under Section 21628, or commencing July 1, 2010, Section 21628.2, shall be engaged in with a minor.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

**21645.** A violation of any provision of this article under circumstances where a person knows or should have known that a violation was being committed is a misdemeanor punishable as follows:

- (a) For the first offense, a fine of up to one thousand five hundred dollars (\$1,500) or imprisonment in the county jail up to two months, or both.
- (b) For the second offense, a fine of up to five thousand dollars (\$5,000) or imprisonment in the county jail up to four months, or both.
- (c) For the third, and any subsequent offense, a fine of up to twenty-five thousand dollars (\$25,000) or imprisonment in the county jail up to six months, or both.

**21646.** The district attorney or the Attorney General, in the name of the people of the State of California, may bring an action to enjoin the violation or the threatened violation of any provision of this article or of any regulation made pertaining to the provisions of this article. Any proceeding brought hereunder shall be governed in all respects by the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

- 21647.** (a) (1) If a peace officer has probable cause to believe that property, except coins, monetized bullion, or “commercial grade ingots” as defined in subdivision (d) of Section 21627, in the possession of a licensed pawnbroker or secondhand dealer is lost, stolen, or embezzled, the peace officer may place a hold on the property for a period not to exceed 90 days.
- (2) A 90-day hold issued pursuant to this section:
- (A) Is created upon the receipt by a licensed pawnbroker or secondhand dealer of a written notice by a peace officer that contains the following:
    - (i) An accurate description of the property being placed on the 90-day hold.
    - (ii) An acknowledgment that the property is being placed on hold pursuant to this section and denoting whether physical possession will remain with the licensed pawnbroker or secondhand dealer or will be taken by the law enforcement agency instituting the 90-day hold.
    - (iii) The law enforcement agency’s police report or department record number, if issued, for which the property is needed as evidence.
    - (iv) The date the notice was delivered to the licensed pawnbroker or secondhand dealer that shall initiate the notification period set forth in subdivisions (c) and (g).
  - (B) Shall not exceed a period of 90 calendar days, but may be renewed as provided in subparagraph (C).
  - (C) May be renewed as often as is required for a criminal investigation or criminal proceeding by any peace officer who is a member of the same law enforcement agency as the peace officer placing the hold on the property.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

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

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

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

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

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

(2) If property placed on hold pursuant to this section is physically surrendered or delivered to a law enforcement agency during the period of the hold, the hold and the pawnbroker's lien against the property shall continue.

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

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

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

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

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

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

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

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

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

(g) If the hold, including any additional hold, is allowed to lapse, or 60 days elapse following the delivery of the notice required to be given by subdivision (c) to the person who reported the property to be lost, stolen, or embezzled without a claim being made by that person, whichever is later, the licensed pawnbroker or secondhand dealer may mail under a certificate of mailing issued by the United States Post Office, addressed to the law enforcement agency that placed the property on hold, a written request to delete the property listing from the Department of Justice automated property system or automated firearms system, as is applicable.



**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 4 TANGIBLE PERSONAL PROPERTY**

Within 30 days after the request has been mailed, the law enforcement agency shall either cause the property listing to be deleted as requested or place a hold on the property. If no law enforcement agency takes any further action with respect to the property within 45 days after the mailing of the request, the licensed pawnbroker or secondhand dealer may presume that the property listing has been deleted as requested and may thereafter deal with the property accordingly, and shall not be subject to liability arising from the failure of the removal of the property listing from the Department of Justice automated property system or automated firearms system.

(h) A licensed pawnbroker or secondhand dealer shall not refuse a request to place property in their possession on hold pursuant to this section when a peace officer has probable cause to believe the property is lost, stolen, or embezzled. If a licensed pawnbroker or secondhand dealer refuses a request to place property on hold pursuant to this section, the property may be seized with or without a warrant. The peace officer shall issue a receipt, as described in Section 21206.7 of the Financial Code, left with the licensed pawnbroker or secondhand dealer. The property shall be disposed of pursuant to procedures set forth in Section 21206.8 of the Financial Code, which shall apply to both licensed pawnbrokers and secondhand dealers under this section.

(i) 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 that has been placed on hold, the hold shall continue for the duration that the property remains subject to the court's jurisdiction. Notwithstanding any other law, when the use of the property seized for a criminal investigation or criminal proceeding has concluded, the property shall be disposed of pursuant to subdivision (d).

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

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

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 5 RESALE OF GOODS**

**21650.** As used in this article, “adequate evidence of authority to sell” is evidence from which a reasonable person would conclude that the person presenting the evidence is the owner of the item he is attempting to sell or is the agent of such owner and is authorized by the owner to sell such item.

**21651.** As used in this article, (a) “Junk dealer” has the meaning defined in Section 21601; and (b) “Secondhand dealer” has the meaning defined in Section 21626.

**21652.** Every junk dealer or secondhand dealer shall, before accepting for resale from any person any finished product, new item of finished or merchandisable quality, inventory item of new materials or finished quality, or other goods and materials in such a state or condition as to show that they are neither abandoned nor scrapped, shall require that such person present adequate evidence of authority to sell. Violation of this section is a misdemeanor.

**21653.** Every junk dealer or secondhand dealer who resells any item acquired in violation of Section 21652 is guilty of a felony, if the value of the item exceeds nine hundred fifty dollars (\$950), and is guilty of a misdemeanor if the value of the item does not exceed nine hundred fifty dollars (\$950).

**ARTICLE 6 SWAP MEETS, FLEA MARKETS, AND OPEN-AIR MARKETS**

**21660.** It is the intent of the Legislature in enacting this article to require the reporting of personal property exchanged, sold, or offered for sale or exchange at swap meets, flea markets, and open-air markets, and information regarding vendors selling or displaying new merchandise, for the purpose of ensuring that swap meet, open-air market, and flea market operators and vendors are in complete compliance with all state laws and regulations applicable to displaying, offering for sale, selling, and exchanging new and previously owned merchandise. This article shall apply to operators and vendors at swap meets, flea markets, and open-air markets unless the merchandise or the transaction is specifically exempt under this article and shall not be superseded or supplanted by any provisions or ordinances or charters of any city, county, or city and county, nor supplemented by any local ordinances or charters or provisions. Nothing contained in this article shall be deemed to affect the land use and zoning regulatory power of a local agency, nor be construed to require any local agency to permit swap meets, flea markets, or open-air markets if local land use or zoning regulations prohibit those operations.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 6 SWAP MEETS, FLEA MARKETS, AND OPEN-AIR MARKETS**

Any transaction that is regulated by this article shall not be subject to the provisions of Article 4 (commencing with Section 21625), regulating transactions in identifiable secondhand tangible personal property. No person, partnership, or corporation shall be considered a “secondhand dealer” within the meaning of Section 21626 because of activities regulated by this article. Article 5 (commencing with Section 21650) of this chapter shall not apply to operators or vendors at swap meets, flea markets, or open-air markets.

**21661.** (a) As used in this article, the term “swap meet” includes a flea market or an open-air market and means an event at which two or more persons offer merchandise for sale or exchange and that meets one of the following conditions:

- (1) A fee is charged for the privilege of offering or displaying merchandise for sale or exchange.
- (2) A fee is charged to prospective buyers for parking or for admission to the area where merchandise is offered or displayed for sale or exchange.
- (3) The event is held more than six times in any 12-month period.

(b) Notwithstanding subdivision (a), the term “swap meet,” as used in this article, includes a flea market or an open-air market and means an event, regardless of the number of persons offering or displaying personal property or the absence of fees, at which used personal property is offered or displayed for sale or exchange if the event is held more than six times in any 12-month period.

(c) The term “swap meet,” as used in this article, is interchangeable and applicable to “flea markets,” “indoor swap meets,” “open-air markets,” or other similar terms, regardless of whether these events are held either inside a building or outside in the open. The primary characteristic is that these activities involve a series of sales sufficient in number, scope, and character to constitute a regular course of business.

(d) “Operator,” as used in this article, means any person, partnership, organization or corporation that controls, manages, conducts or otherwise administers a swap meet.

(e) “Vendor,” as used in this article, means any person, partnership, organization or corporation who exchanges, sells, or offers for sale or exchange any merchandise at a swap meet. A swap meet vendor shall be classified according to the following categories:

- (1) A “casual swap meet vendor” means a vendor who participates in a swap meet two times or less per year.
- (2) A “regular swap meet vendor” means a vendor who participates in a swap meet three or more times per year.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 6 SWAP MEETS, FLEA MARKETS, AND OPEN-AIR MARKETS**

**21662.** The provisions of this article shall not apply to:

(a) An event held not more than two times per calendar year that is organized for the exclusive benefit of any community chest, fund, foundation, association, or corporation organized and operated for religious, educational, hospital, or charitable purposes, if no part of any admission fee or parking fee charged vendors or prospective purchasers, or the gross receipts or net earnings from the sale or exchange of merchandise, whether in the form of a percentage of the receipts or earnings, as salary, or otherwise, inures to the benefit of any private shareholder or person participating in the organization or conduct of the event.

(b) An event at which all of the merchandise offered or displayed is new, and all persons selling, exchanging, offering, or displaying merchandise for sale or exchange are manufacturers or licensed retail or wholesale merchants.

(c) Any vehicle or trailer or any vehicle accessory or vehicle part usable for a motor vehicle eligible for vehicle registration under Section 5004 of the Vehicle Code, and items of memorabilia or history, or both, relating to these vehicles.

**21663.** (a) Except as provided in Section 21663.1, every vendor shall report all merchandise offered or displayed for sale or exchange on a form, prescribed or approved by the California Department of Justice, containing all the following information:

(1) The name and address of the vendor.

(2) A description of the merchandise offered for sale or exchange, including serial numbers and personal identification marks, or if there is no serial number, other identification marks or symbols, if any, or a general description of the item.

(3) A certification by the vendor that to his or her knowledge and belief, the information contained on the form is true.

(4) The make, year, color, state of registration, and license number of the vehicle or vehicles in which the merchandise is transported to the swap meet.

(5) The California seller's permit number (State Board of Equalization sales tax number), if any, of the vendor.

(6) The vendor's motor vehicle driver's license number and its state of issuance or California identification card numbers.

(7) If the vendor is an agent of an individual, company, partnership or corporation, the name and business address of the principal.

(8) The dates of sale for which the report is made.

(9) A receipt number given by the operator for the dates of the sale or the space used by the vendor.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 6 SWAP MEETS, FLEA MARKETS, AND OPEN-AIR MARKETS**

(10) A requirement that the vendor check an appropriate box that sets forth his or her permit number for sales tax purposes. If the vendor's permit number is not listed in the appropriate place on the form, the vendor shall indicate that he or she has not and does not contemplate making more than two sales of sufficient size, scope, and character within a 12-month period to require a permit.

(b) In addition to the official governmental form, consisting of an original and at least two copies, the information required may be recorded on a computerized or other similar record that contains the same information required by subdivision (a).

(c) In no case shall a swap meet owner or operator be liable or responsible for the accuracy of, or any discrepancy in, any information submitted by the vendors on the forms provided to them by the swap meet owners or operators.

**21663.1.** (a) A vendor selling or displaying new merchandise and a vendor holding a business license issued by a city, county, or city and county of this state are not required to comply with Section 21633 if the swap meet is conducted at the same location at least once per month on real property owned by the operator or leased to the operator for a period of not less than one year.

(b) A vendor meeting the conditions of subdivision (a) shall, at a minimum, provide the operator with the following information prior to offering or displaying merchandise for sale at the event:

(1) The name and address of the vendor.

(2) The vendor's California seller's permit number (State Board of Equalization sales tax number).

(3) The vendor's motor vehicle driver's license number and its state of issuance or his or her California identification card number.

(4) The vendor's business license number and its city or county of issuance, unless the vendor is operating under a business license issued to the operator.

(c) The operator shall maintain the information required by this section in written or electronic form for six months after the date of its receipt and shall make copies of the information available for inspection, upon request, to any peace officer or any authorized representative of the Board of Equalization or Department of Justice.

(d) In no case shall the operator be liable for the accuracy of, or any discrepancy in, any information submitted by a vendor.

**BUSINESS AND PROFESSIONS CODE**

**DIVISION 8 SPECIAL BUSINESS REGULATIONS**

**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 6 SWAP MEETS, FLEA MARKETS, AND OPEN-AIR MARKETS**

**21664.** (a) The swap meet operator shall obtain sufficient blank forms from the Department of Justice at a cost not to exceed the actual cost to the department, or shall cause to be printed and be available sufficient forms approved by the department, for the use of vendors attending the swap meet, and shall distribute them to vendors as needed. The vendor shall submit the completed form to the operator who shall note on the vendor's copy that the vendor has submitted the form. The vendor shall submit the form to the swap meet operator prior to the close of the business day on which the item is to be placed on sale. The swap meet operator shall provide this form required by subdivision (a) of Section 21663 to the chief of police, if the swap meet occurs within the territorial limits of an incorporated city, or the sheriff, if the swap meet occurs outside a city, within 24 hours, or, before the end of the first working day following the swap meet. The original shall also be available to the State Board of Equalization to permit them to detect possible sales tax evasion. The reports shall not be utilized by a chief of police, a sheriff, the Department of Justice, or any other governmental agency for the purpose of providing a permanent record of property ownership, nor shall the information derived from these reports form the basis for any record other than reports which assist in tracing and recovering of stolen property or assist in detecting sales tax evasion.

(b) Every vendor shall submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 for each swap meet at which he or she is a vendor prior to the close of the business day at which the item is to be placed on sale. Items described in reports previously submitted pursuant to paragraph (2) of subdivision (a) of Section 21663 may be omitted from the description on the forms submitted at subsequent swap meets if the vendor furnishes the swap meet operator of each subsequent swap meet with two copies of the report previously submitted, marked to indicate personal property currently being offered or displayed.

(c) A vendor who regularly offers or displays for sale or exchange any new or used personal property or merchandise shall be required to submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 only once every 60 days. The vendor shall, however, submit a new report at any swap meet at which he or she is a vendor and offers or displays for sale or exchange any personal property not included by generic classification in the previously submitted report. For purposes of this subdivision, a vendor shall be deemed to regularly offer or display for sale or exchange any items of merchandise if such vendor participates for four or more days in a month at a swap meet conducted at the same location. Any vendor claiming to be a regular seller of new or used merchandise under the provisions of this subdivision shall so indicate on the bimonthly report.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 6 SWAP MEETS, FLEA MARKETS, AND OPEN-AIR MARKETS**

(d) Every vendor shall submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 for each swap meet at which he or she is a vendor prior to the business day on which the item is to be placed on sale. A vendor who regularly offers or displays merchandise for sale or exchange shall be required to submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 only once every six months, provided the vendor has a written agreement with the swap meet operator for a periodic term of one month or longer. All other casual vendors shall submit the form disclosing the information required by subdivision (a) of Section 21663 on each instance of offering merchandise for sale or exchange at the swap meet.

**21665.** (a) Swap meet operators shall retain a copy of the reports collected by them for six months and shall make the copies available for inspection, upon request, by a peace officer as defined in Section 830.1 or subdivision (a) of Section 830.3 of the Penal Code, or a peace officer of the Department of the California Highway Patrol as defined in subdivision (a) of Section 830.2 of the Penal Code, when the swap meet occurs on state property, or properly identified representatives of the State Board of Equalization or Department of Justice.

(b) Vendors shall have available for inspection during the swap meet a completed copy of the report form which was submitted to the swap meet operator describing the goods offered or displayed for sale or exchange at the swap meet.

**21666.** (a) Upon request, a vendor shall provide the purchaser a written receipt disclosing the vendor's name and address for any items purchased which has a selling price in excess of fifteen dollars (\$15).

(b) No vendor shall offer or display at a swap meet any new or used personal property or merchandise of a kind which the swap meet operator has expressly prohibited. Every swap meet owner shall post or display in prominent places at the swap meet, or give written notice to every vendor prior to the commencement of a swap meet of the kinds of personal property or merchandise which may be not offered for sale or exchange. The swap meet owner or operator shall also post a sign at the main entrance of the swap meet which states that vendors are required to issue receipts in accordance with subdivision (a).

**21667.** A violation of any provision of this article, except subdivision (b) of Section 21666, is a misdemeanor and may be punishable by up to six months in county jail, a fine of fifty dollars (\$50) for the first violation, one hundred dollars (\$100) for the second violation, and two hundred dollars (\$200) for the third and subsequent violations.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 6 SWAP MEETS, FLEA MARKETS, AND OPEN-AIR MARKETS**

**21668.** A chief of police of a city or the sheriff of an area outside of the city may waive any requirement of this article for swap meet operators and vendors in the city or area outside of the city if the chief of police or sheriff determines it is not necessary or appropriate in the public interest to impose the requirement. If the swap meet is located in both the city and area outside of the city, the chief of police of the city has the authority to grant the waiver authorized by this section.

**21669.** (a) All swap meets which are conducted two or more times per calendar year on any premises or property owned or leased by any city, county, city and county, state, or any other local governmental agency, entity, or board, shall comply with all of the following procedures:

- (1) The swap meet operator shall have a valid business license.
- (2) The swap meet operator shall have a valid California seller's permit number (State Board of Equalization sales tax number), if applicable.
- (3) The swap meet operator shall provide the state or local governmental entities described in this subdivision upon whose property the swap meet is being held, a certificate of insurance certifying that the swap meet operator maintains public liability and property damage insurance for the operation of the swap meet of at least two million dollars (\$2,000,000), and that the policy names that governmental entity as an additional insured under the policy.
- (4) The swap meet operator shall provide the state or local governmental entity a hold harmless and indemnification agreement for his or her operation of the swap meet and activities and acts arising from that swap meet.
- (5) The swap meet operator shall comply with all other provisions of this article relating to swap meets.

(b) State or local governmental entities shall not operate or manage a swap meet for profit in direct competition to a private enterprise, unless they comply with subdivision (a) of Section 21662.

**21669.1.** In addition to the requirements specified in subdivision (a) of Section 21669, all swap meets conducted on the premises or property of a state or local governmental entity that has or expects to have an average daily attendance of 10,000 or more persons shall provide all of the following:

- (a) A statement of ownership, including the identity of individuals holding a financial interest of 5 percent or more.



**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 6 SWAP MEETS, FLEA MARKETS, AND OPEN-AIR MARKETS**

- (b) A sworn statement that no individuals who have a financial interest of 5 percent or more in the swap meet have been convicted of any crime involving dishonesty or moral turpitude.
- (c) A financial statement showing the operator's financial capability to operate a major swap meet and to meet any financial obligations to the lessor and subcontractors.
- (d) A statement that the operator is not knowingly delinquent in any payments owed to a state or local governmental entity and that he or she is not knowingly in violation of any state or local law or ordinance related to public health or safety standards.
- (e) Evidence that the operator has a minimum of five years of experience in the management and operation of a swap meet for profit with an average daily attendance of 5,000 or more.
- (f) A plan for operations, including security, crowd control, sanitation, and emergency medical response.

**ARTICLE 7 SPORTS TRADING CARDS**

**21670.** For purposes of this article, the following definitions apply:

- (a) "Altered or refurbished" means repair work which has been performed to enhance the value of the sports trading card as a collectible. This work includes, but is not limited to, filling in holes, building new corners, ironing out creases, or touching up the pictures or borders on the sports trading card.
- (b) "Legitimate sports trading card" means any card produced for use in commerce, that contains a company name or team logo, or both, and an image, representation, or facsimile of one or more players or other team member or members in any pose, and is produced pursuant to an appropriate licensing agreement.
- (c) "Counterfeit sports trading card" means any card, produced for use in commerce, without appropriate licensing authority, which is a forgery, copy, or imitation of a legitimate sports trading card, produced without authority or right, and with the intention of passing the card for that which is original or genuine.
- (d) "Unlicensed sports trading card" means any card that is produced for use in commerce, without proper licensing authority. This definition specifically excludes cards which are bound in publications.
- (e) "Appropriate licensing authority" means express, written permission to manufacture, produce, distribute, and sell the sports trading card, as granted by the valid owner or owners of the licensing rights of any image, work, term, name, symbol, logo, or insignia that appears on the sports trading card.

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8 SPECIAL BUSINESS REGULATIONS**  
**CHAPTER 9 SECONDHAND GOODS**

**ARTICLE 7 SPORTS TRADING CARDS**

**21671.** (a) Any sports trading card that is altered or refurbished shall be accompanied by a certificate stating the exact work done to the sports trading card, the date the work was performed, the cost of that work, and the name, phone number, and address of the person who performed the work.

(b) Any person or agent thereof, who knowingly sells or trades a sports card in violation of subdivision (a), shall both:

(1) Refund to the buyer, the full amount paid for the altered or refurbished sports trading card or the full retail value of any nonmonetary consideration received in exchange for the altered or refurbished sports trading card, or both.

(2) Be liable to the buyer for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation. Each card sold represents a separate and distinct violation.

**21672.** (a) Any person, or agent thereof, who knowingly manufactures, produces, or distributes unlicensed or counterfeit sports trading cards with the intent to deceive, injure, or defraud another, is guilty of a misdemeanor.

Any person, or agent thereof, who violates this subdivision shall do both of the following:

(1) Refund to the buyer the full amount paid for the unlicensed or counterfeit sports trading card or the full retail value of any nonmonetary consideration received in exchange for the unlicensed or counterfeit sports trading card, or both.

(2) Be liable to the buyer for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation. Each card sold represents a separate and distinct violation.

(b) Any person who knowingly sells a cut, unlicensed sports trading card that has been produced by cutting the card from a publication in which unlicensed sports trading cards are bound, without disclosing the source and the means of producing the card, with the intent to deceive, injure, or defraud another, is guilty of a misdemeanor.

Any person who violates this subdivision shall do both of the following:

(1) Refund to the buyer the full consideration paid or furnished for the cut, unlicensed sports trading card.

(2) Be liable to the buyer for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation. Each card sold represents a separate and distinct violation.

This provision does not apply to a sports trading card that is excluded from the definition of "unlicensed sports trading card" pursuant to subdivision (d) of Section 21670 of the Business and Professions Code by reason of being bound in a publication.

**FINANCIAL CODE**  
**DIVISION 8 PAWNBROKERS**  
**CHAPTER 1 GENERAL PROVISIONS**

**ARTICLE 1 DEFINITIONS**

**21000.7.** As used in this division “receiving goods as security for a loan” does not include a good faith purchase of goods.

**21001.** “Compensation” includes expenses, interest, disbursements, storage charges, and all other charges of any nature in connection with a loan or forbearance.

**21002.** (a) As used in this division, “pledged property” is property held as security for a loan, the title to which remains with the pledgor and has not passed to the pawnbroker pursuant to Section 21201.

(b) “Vested property” is property the title to which has been transferred from the pledgor to the pawnbroker pursuant to Section 21201. Vested property is not pledged property.

**21003.** For purposes of this division, the term “month” means a period of time consisting of 30 consecutive calendar days.

**21050.** This division does not apply to any of the following:

(a) Any corporation organized for the purpose of securing credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled “Agricultural Credits Act of 1923.”

(b) Any nonprofit cooperative corporation or association with or without capital stock, organized or existing pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(c) Any person, corporation, association, syndicate, joint stock company, or partnership, engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, and bee products on a cooperative nonprofit basis.

**21051.** (a) The limitations with respect to rates and charges set forth in Sections 21200 and 21200.5 do not apply to any loan of a bona fide principal amount of two thousand five hundred dollars (\$2,500) or more if this section is not used for the purpose of evading this division.

(b) In determining whether a loan is a loan of the principal amount of two thousand five hundred dollars (\$2,500), Section 22054 shall apply.

**FINANCIAL CODE**

**DIVISION 8 PAWNBROKERS**

**CHAPTER 2 PAWNBROKERS REGULATIONS**

**21200.** (a) Except as otherwise provided in this chapter, no pawnbroker shall charge or receive compensation at a rate exceeding the sum of the following:

(1) Three percent per month on the unpaid principal balance of any loan.

(2) A charge not exceeding three dollars (\$3) a month on any loan when the monthly charge permitted by paragraph (1) would otherwise be less.

(b) One month's interest may be charged for any part of the month in which pawned property is redeemed.

**21200.1.** A loan setup fee of five dollars (\$5) or 3 percent, whichever is greater, may be charged for each loan. However, the maximum loan setup fee shall not exceed thirty dollars (\$30). Loan setup fees are in addition to any other allowed charges.

**21200.5.** A pawnbroker may charge as prescribed in the following schedule:

**Schedule of Charges**

(a) A charge not exceeding three dollars (\$3) may be made on any loan for not more than three months which does not exceed nineteen dollars and ninety-nine cents (\$19.99).

(b) A charge not exceeding six dollars (\$6) may be made on any loan for not more than three months of twenty dollars (\$20) or more, but not exceeding forty-nine dollars and ninety-nine cents (\$49.99).

(c) A charge not exceeding nine dollars (\$9) may be made on any loan for not more than three months of fifty dollars (\$50) or more, but not exceeding seventy-four dollars and ninety-nine cents (\$74.99).

(d) A charge not exceeding twelve dollars (\$12) may be made on any loan for not more than three months of seventy-five dollars (\$75) or more, but not exceeding ninety-nine dollars and ninety-nine cents (\$99.99).

(e) A charge not exceeding fifteen dollars (\$15) may be made on any loan for not more than three months of one hundred dollars (\$100) or more, but not exceeding one hundred seventy-four dollars and ninety-nine cents (\$174.99).

(f) A charge not exceeding 9 percent may be made on any loan for not more than three months on any loan of one hundred seventy-five dollars (\$175) or more, but not exceeding two thousand four hundred ninety-nine dollars and ninety-nine cents (\$2,499.99).

(g) The monthly charge for any extension of a written contract required by Section 21201 or 21201.5 shall be computed in accordance with the provisions of Section 21200.

(h) The schedule of charges prescribed by this section shall be posted in a place clearly visible to the general public.

**FINANCIAL CODE**

**DIVISION 8 PAWNBROKERS**

**CHAPTER 2 PAWNBROKERS REGULATIONS**

**21200.6.** (a) In addition to other allowed charges, at the time property is redeemed or a replacement loan is issued pursuant to Section 21201.5, the pawnbroker may collect a handling and storage charge for pawned articles. The maximum amount that may be charged pursuant to this section is in accordance with the following schedule:

(1) One dollar (\$1) for any article that can be contained within one cubic foot.

(2) Five dollars (\$5) for any article that cannot be contained within one cubic foot but can be contained within three cubic feet.

(3) Ten dollars (\$10) for any article that cannot be contained within three cubic feet but can be contained within six cubic feet.

(4) Twenty dollars (\$20) for any article that cannot be contained within six cubic feet and one dollar (\$1) for each additional cubic foot in excess of six cubic feet.

(b) For purposes of this section, cubic feet shall be determined by multiplying the width of an article, at its greatest width, by the depth of an article, at its greatest depth, by the height of an article, at its greatest height.

**21200.7.** The maximum charge of compensation charged by a pawnbroker pursuant to the authority of Section 21200 shall be posted in a place clearly visible to the general public.

**21200.8.** In addition to other allowed charges, a pawnbroker may collect a processing charge of four dollars (\$4) for each firearm pawned.

**21200.9.** No licensed pawnbroker shall promise any seller of tangible personal property that the seller may repurchase property sold to the pawnbroker.

**21201.** (a) Every loan made by a pawnbroker for which goods are received in pledge as security shall be evidenced by a written contract, a copy of which shall be furnished to the pledgor. The loan contract shall provide a loan period that is a minimum of four months, shall set forth the loan period and the date on which the loan is due and payable, and shall clearly inform the pledgor of his or her right to redeem the pledge during the loan period.

(b) Every loan contract shall contain the following notice, in at least 8-point boldface type and circumscribed by a box, immediately above the space for the pledgor's signature:

"You may redeem the property you have pledged at any time until the close of business on \_\_\_\_\_ [fill in date no less than four months from date loan begins]. To redeem, you must pay the amount of the loan and the applicable charges which have accrued through the date on which you redeem."

## FINANCIAL CODE

### DIVISION 8 PAWNBROKERS

#### CHAPTER 2 PAWNBROKERS REGULATIONS

(c) Every pawnbroker shall retain in his or her possession every article pledged to him or her for the duration of the loan period. During such period the pledgor may redeem the articles upon payment of the amount of the loan and the applicable charges. If the pledgor and the pawnbroker agree in writing that the pawned property may be stored off premises, following the request for redemption of the loan, the pawnbroker shall return the pledged property to the pledgor the next calendar day when both the pawnbroker's store and the storage facility are open, not to exceed two business days.

(d) If any pledged article is not redeemed during the loan period as provided herein, and the pledgor and pawnbroker do not mutually agree in writing to extend the loan period, the pawnbroker shall notify the pledgor within one month after expiration of the loan period. If the pawnbroker fails to notify the pledgor within one month after the expiration of the loan period, the pawnbroker shall not charge interest from the day after the expiration of the one-month period. The pawnbroker shall notify the pledgor at his or her last known mailing or electronic address of the termination of the loan period, by a means for which verification of mailing or, at the sole option of the pledgor, electronic transmission of the notification can be provided by the pawnbroker, and extending the right of redemption, during posted business hours, for a period of 10 days from date of mailing or electronic transmission of that notice. Electronic notice of the termination of the loan period shall be valid if the pledgor has previously responded to an electronic communication sent by the pawnbroker to the pledgor's last known electronic address provided by the pledgor. Upon the initiation of each new or replacement loan, the pledgor shall affirm that the current electronic address on file with the pawnbroker is valid. The 10-day notice shall state, in substantially the same format as the following: "If the tenth day falls on a day when the pawnshop is closed, the time period is extended to the next day that the pawnshop is open."

(e) The posted schedule of charges required pursuant to Section 21200.5 shall contain a notice informing the pledgor that if he or she desires, the pawnbroker shall send the notice of termination of the loan period by registered or certified mail with return receipt requested, upon prepayment of the mailing costs.

(f) If any pledged article is not redeemed within the 10-day notice period, the pawnbroker shall become vested with all right, title, and interest of the pledgor, or his or her assigns, to the pledged article, to hold and dispose of as his or her own property. Any other provision of law relating to the foreclosure and sale of pledges shall not be applicable to any pledge the title to which is transferred in accordance with this section. The pawnbroker shall not sell any article of pledged property until he or she has become vested with the title to that property pursuant to this section.

(g) The sale of pledged property is a misdemeanor pursuant to Section 21209.

## FINANCIAL CODE

### DIVISION 8 PAWNBROKERS

#### CHAPTER 2 PAWNBROKERS REGULATIONS

**21201.1.** Whenever a pledger, or his or her assignee, loses a pawn ticket, a fee of not to exceed ten dollars (\$10) may be charged for services of verifying the identification of the claimant, fingerprinting the claimant, and having the claimant execute a declaration under penalty of perjury.

**21201.2.** If the pledgor fails to redeem any pawned item during the loan period, thereby obliging the pawnbroker to mail or electronically transmit the notice required under Section 21201, the pawnbroker may charge a fee of up to three dollars (\$3) for services and costs pertaining to the preparation of the notice, in addition to any other allowed charges.

**21201.3.** (a) The written contract required pursuant to Section 21201 shall contain a provision in 8-point type stating whether the item or items pledged are to be stored at the business premises of the pawnbroker and adjacent to this provision, the following disclosure shall be made: "We must return your property within two business days if your property is stored off premises."

(b) Every pawnbroker shall display a sign at his or her premises indicating whether or not pawned items are insured.

(c) If a pawnbroker stores pledged property at a location other than the pawnshop, the pawnbroker shall post a conspicuous sign stating that pawned items may be stored off premises with the consent of the pledgor and that following the redemption of a loan, property is required to be returned the next calendar day upon which both the pawnbroker's store and the storage facility are open, not to exceed two business days.

(d) Notwithstanding Section 21209, a violation of this section is an infraction.

(e) This section shall become operative July 1, 1995.

**21201.4.** Charges for the first three months of any loan made pursuant to the written contract required by Section 21201 or 21201.5 shall be determined by the application of the schedule of charges contained in Section 21200.5. Charges for any extension of time following the first three months of any loan shall be determined by application of the schedule of maximum compensation contained in Section 21200.

**21201.5.** (a) During the contractual loan period and any extension thereof, but prior to the start of the 10-day grace period provided in subdivision (d) of Section 21201, a pledgor may request, and a pawnbroker may consent to, a replacement loan to take effect upon the expiration of the loan period stated in the active loan contract delivered to the pledgor under Section 21201 or this section.

## FINANCIAL CODE

### DIVISION 8 PAWNBROKERS

#### CHAPTER 2 PAWNBROKERS REGULATIONS

(b) Alternatively, a pledgor may request, and a pawnbroker may consent to, a replacement loan during the 10-day grace period provided in subdivision (d) of Section 21201. Any such replacement loan shall become effective on the date it is issued.

(c) All of the following shall apply to a replacement loan issued pursuant to this section:

(1) The loan shall be processed as, and deemed to be, a new loan subject to all other fees and charges permitted by this chapter.

(2) Before a replacement loan may be issued, the pledgor shall pay off all outstanding charges from the prior loan then due, including interest or any loan writing, storage, notification, or other fee authorized in this chapter, in cash or another form acceptable to the pawnbroker. The pledgor's payment may be delivered to the pawnbroker by any method acceptable to the pawnbroker, including, but not limited to, United States mail, private mail, a personal representative, or electronic transfer. If insufficient payment is tendered by the pledgor or is not tendered in cash or a form acceptable to the pawnbroker, the pawnbroker shall, if commercially reasonable, return the payment in the same manner that the payment was delivered by the pledgor, or by another commercially reasonable manner, within five business days, and shall include a statement advising the pledgor the reason the payment was rejected. The pawnbroker is under no obligation to enter into a replacement loan if the amount is insufficient or the method of payment or form of tender is not cash or acceptable to the pawnbroker.

(3) The unpaid balance of the prior loan shall be debited to the replacement loan on which the same article or articles have been pledged. The replacement loan contract shall disclose the amount of the prior loan that is debited and shall otherwise be consistent with Section 21201.

(4) If the pledgor requests a replacement loan in person or electronically, the pledgor's consent to the terms of the replacement loan shall be deemed given when he or she signs the written replacement loan contract in person or electronically in conformity with Section 21201.6.

(5) If the pledgor requests a replacement loan by mail or through a personal representative, the pledgor's consent to the terms of the replacement loan shall be deemed given when all required charges from the prior loan then due are paid in a form acceptable to the pawnbroker. The principal amount of a replacement loan requested by mail or through a personal representative shall not exceed the principal amount of the prior loan.

(6) The terms of the replacement loan shall be consistent with this chapter on the date the replacement loan is issued.

(7) The replacement loan shall be evidenced by a written agreement or electronic record. The pawnbroker shall mail or otherwise transmit a copy of the written agreement or electronic record to the pledgor within five business days following receipt of payment by means for which verification of mailing or electronic transmittal can be provided by the pawnbroker.



## FINANCIAL CODE

### DIVISION 8 PAWNBROKERS

#### CHAPTER 2 PAWNBROKERS REGULATIONS

**21201.6.** The requirement for a written contract signed by the pledgor as set forth in Section 21201.5 may be met electronically if all of the following conditions are satisfied:

(a) The contract and transaction comply with the provisions of the Uniform Electronic Transactions Act, as set forth in Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code, as may be applicable at the time that the loan is entered into between the pawnbroker and the pledgor.

(b) Any written disclosures specified in this chapter to be set forth in a specified minimum type size are conspicuously presented to the pledgor prior to his or her execution of the electronic contract.

(c) The pawnbroker makes one of the following disclosures:

(1) If the principal loan amount is below two thousand five hundred dollars (\$2,500), the pawnbroker discloses the maximum compensation due a pawnbroker as set forth in Section 21200.7 prior to the pledgor's execution of the electronic contract.

(2) If the principal loan amount is two thousand five hundred dollars (\$2,500) or more, the pawnbroker discloses the provisions of Sections 21051 and 22054 prior to the pledgor's execution of the electronic contract.

**21202.** Every pawnbroker shall enter at the time of the transaction, in records of loans and pledges kept by him for that purpose, the date, duration, amount, and rate of interest or charges of every loan made by him, a reasonably accurate description of the property pledged, the name and residence address of the pledgor. Every pawnbroker shall deliver to the pledgor a written copy of such entry. Such written copy need not include the name and address of the pledgor.

**21203.** Any property held in pawn which is not subject to a hold pursuant to Section 21647 of the Business and Professions Code shall be returned to the pledgor immediately upon redemption of the loan. However, if the property is stored off the business premises of the pawnbroker, following the redemption of the loan the property shall be returned the next calendar day when both the pawnbroker's store and the storage facility are open, not to exceed two business days.

**21204.** Every pawnbroker, upon redemption of a loan contract, shall provide the borrower with a receipt that correctly states in detail all of the fees, charges, and compensation paid by the borrower to the pawnbroker.

**21205.** Representatives of the pawnbroker industry shall poll their members annually to gather data relating to the current financial condition of the California pawn industry.

## FINANCIAL CODE

### DIVISION 8 PAWNBROKERS

#### CHAPTER 2 PAWNBROKERS REGULATIONS

**21206.** Every pawnbroker shall produce his or her records of loans and all pledged property, for inspection by the following persons:

- (a) Any officer holding a warrant authorizing him or her to search for personal property.
- (b) Any peace officer or employee designated by the chief of police or sheriff.
- (c) Any officer holding a court order directing him or her to examine such records or pledged property.

**21206.7.** Whenever any property is taken from a pawnbroker by a peace officer which is alleged to be stolen property, the police officer shall give the pawnbroker a receipt for the property which shall contain a description of the property, the reason for seizure, and the names of the pawnbroker and the officer.

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

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

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

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

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

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

## FINANCIAL CODE

### DIVISION 8 PAWNBROKERS

#### CHAPTER 2 PAWNBROKERS REGULATIONS

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

**21207.** No pawnbroker shall receive anything in pledge from any person who is a minor.

**21208.** A pawnbroker shall comply with the reporting requirements imposed on secondhand dealers under Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

**21209.** The violation of any provision of this chapter under circumstances where a person knows or should have known that a violation was being committed is a misdemeanor.

#### CHAPTER 3 LICENSURE

**21300.** (a) The chief of police, the sheriff, or, where appropriate, the police commission shall accept an application for and grant a license permitting the licensee to engage in the business of pawnbroker, as defined in Section 21000, at the address indicated on the application, to an applicant who has complied with the requirements of Sections 21303, 21304, and 21305 and has not been convicted of an attempt to receive stolen property or any other offense involving stolen property. Prior to the granting of a license, the licensing authority shall submit the application to the Department of Justice. If the Department of Justice does not comment on the application within 30 days thereafter, the licensing authority shall grant the applicant a license. All forms for application and licensure, and license renewal, shall be prescribed and provided by the Department of Justice. A fee shall be charged to the applicant by the Department of Justice, as specified in Section 21642.5 of the Business and Professions Code, for processing the initial license application and funding the single, statewide, uniform electronic reporting system set forth in subdivision (j) of Section 21628 of the Business and Professions Code. The licensing authority shall collect the fee and transmit the fee to the Department of Justice. In addition, the police chief, sheriff, or, where appropriate, the police commission, may charge a fee to the applicant not to exceed the actual costs incurred to process the application and to collect and transmit the fee charged by the Department of Justice.

(b) For the purposes of this section, "convicted" means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(c) Notwithstanding subdivisions (a) and (b), no person shall be denied a pawnbroker's license solely on the grounds that he or she violated any provision contained in Chapter 1 (commencing with Section 21000) or Chapter 2 (commencing with Section 21200), or any provision contained in Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of Chapter 9 of Division 8 of the Business and Professions Code, unless the violation demonstrates a pattern of conduct.

## FINANCIAL CODE

### DIVISION 8 PAWNBROKERS

#### CHAPTER 3 LICENSURE

**21300.1.** It is unlawful for any person who is not duly licensed under this section to act as a pawnbroker or represent himself, herself, or a business entity to be a pawnbroker or a pawnbrokerage business entity.

**21301.** (a) A license granted pursuant to Section 21300 shall be renewable the second year from the date of issue, and every other year thereafter, upon the filing of a renewal application, payment of a renewal fee specified by the licensing authority as described in this subdivision, and compliance with the requirements of Section 21303. The Department of Justice shall also require the licensee, in addition to any locally assessed fee as set forth herein, to pay a fee as described in Section 21642.5 of the Business and Professions Code. The licensing authority shall collect the fee and transmit the fee and a copy of the renewed license to the Department of Justice. The police chief, sheriff, or, where appropriate, the police commission may charge a fee not to exceed the actual costs incurred to process the renewal application of the licensee and to collect and transmit the fee charged by the Department of Justice.

(b) The license shall be subject to forfeiture by the licensing authority, and the licensee's activities as a pawnbroker shall be subject to being enjoined pursuant to Section 21302, for breach of any of the following conditions:

(1) The business shall be carried on only at the location designated on the license. The license shall designate all locations where property belonging to the business is stored. Property of the business may be stored at locations not designated on the license only with the written consent of the local licensing authority.

(2) The license or a copy thereof, certified by the licensing authority, shall be displayed on the premises in plain view of the public.

(3) The licensee shall not engage in any act that the licensee knows to be in violation of this article.

(4) The licensee shall not be convicted of an attempt to receive stolen property or other offense involving stolen property. For the purposes of this paragraph, "convicted" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the chief of police, the sheriff, or, where appropriate, the police commission is permitted to take following that conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(c) Notwithstanding subdivisions (a) and (b), no renewal application for a pawnbroker's license may be denied, nor may his or her pawnbroker's license be forfeited, solely on the grounds that the applicant violated any provision contained in Chapter 1 (commencing with Section 21000) or Chapter 2 (commencing with Section 21200), or any provision contained in Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of Chapter 9 of Division 8 of the Business and Professions Code, unless the violation demonstrates a pattern of conduct.

## FINANCIAL CODE

### DIVISION 8 PAWNBROKERS

#### CHAPTER 3 LICENSURE

**21301.1.** It is unlawful for any person to advertise his or her services as a pawnbroker, or to use any words or parts of words in any advertisements that connote a transaction involving the taking of tangible personal property as security for a loan unless the pawnbroker's license number is clearly displayed in the advertisement.

**21302.** The district attorney or the Attorney General, in the name of the people of the State of California, may bring an action to enjoin the violation or the threatened violation of any regulation made pertaining to the provisions contained in Chapter 1 (commencing with Section 21000) or Chapter 2 (commencing with Section 21200) of this division or Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of Chapter 9 of Division 8 of the Business and Professions Code. Any proceeding brought hereunder shall be governed in all respects by the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

**21303.** (a) As a condition precedent to the issuance or renewal of a pawnbroker's license the applicant shall file a pawnbroker's two-year nonrevocable surety bond with the issuing authority, in the sum of twenty thousand dollars (\$20,000). The pawnbroker's bond required by this article shall be executed by an admitted surety in favor of the State of California and shall be filed by the applicant with the licensing authority.

(b) The bond shall be for the benefit of pledgors of pledged property when the property is not available for redemption, due to the criminal negligence, criminal malfeasance, or other criminal conduct of the pawnbroker, and the pledgor has complied with the conditions precedent to redemption under the terms of the loan contract. The pledgor has the burden of establishing by clear and convincing evidence that all conditions precedent to redemption under the terms of the loan contract have been performed.

**21304.** (a) As a condition precedent to the issuing of a pawnbroker's license, the applicant shall file with the issuing authority a financial statement confirming that the applicant has at least one hundred thousand dollars (\$100,000) in the form of liquid assets readily available for use in each licensed business for which the application is made, not including real property, or, in the absence of one hundred thousand dollars (\$100,000), an applicant may post a nonrevocable surety bond in the amount of one hundred thousand dollars (\$100,000) or the applicant may, in lieu of posting a surety bond, deposit money, certificates, accounts, bonds, or notes, as provided in Section 995.710 of the Code of Civil Procedure. The financial statement shall be filed by the applicant under penalty of perjury and signed by a California certified public accountant verifying that he or she has reviewed the financial statement.

**FINANCIAL CODE**

**DIVISION 8 PAWNBROKERS**

**CHAPTER 3 LICENSURE**

(b) This section does not apply to any person holding a secondhand dealer's license pursuant to Section 21641 or 21642 of the Business and Professions Code who is actively engaged as a pawnbroker on the effective date of this section.

**21305.** A license issued pursuant to this chapter shall not be transferred or assigned.

**21306.** A pawnbroker licensed under Section 21300 is exempt from the licensing requirements under Sections 21641 and 21642 of the Business and Professions Code and may engage in any transaction involving tangible personal property for which a secondhand dealers license is required under Sections 21641 and 21642 of the Business and Professions Code. Pawnbrokers operating under this license exemption are required to conform to all other requirements of secondhand dealers for which a license is required under Sections 21641 and 21642 of the Business and Professions Code.

**21307.** Except as otherwise specifically provided, the violation of any provision of this chapter under circumstances where a person knows or should have known that a violation was being committed is a misdemeanor.

**PENAL CODE**

**TITLE 10 MISCELLANEOUS PROCEEDINGS**

**CHAPTER 12 DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED**

**1407.** When property, alleged to have been stolen or embezzled, comes into the custody of a peace officer, he shall hold it subject to the provisions of this chapter relating to the disposal thereof.

**1408.** On the application of the owner and on satisfactory proof of his ownership of the property, after reasonable notice and opportunity to be heard has been given to the person from whom custody of the property was taken and any other person as required by the magistrate, the magistrate before whom the complaint is laid, or who examines the charge against the person accused of stealing or embezzling it, shall order it to be delivered, without prejudice to the state, to the owner, on his paying the necessary expenses incurred in its preservation, to be certified by the magistrate. The order entitles the owner to demand and receive the property.

**PENAL CODE**

**TITLE 10 MISCELLANEOUS PROCEEDINGS**

**CHAPTER 12 DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED**

**1409.** If property stolen or embezzled comes into the custody of the magistrate, it shall be delivered, without prejudice to the state, to the owner upon his application to the court and on satisfactory proof of his title, after reasonable notice and opportunity to be heard has been given to the person from whom custody of the property was taken and any other person as required by the magistrate, and on his paying the necessary expenses incurred in its preservation, to be certified by the magistrate.

**1410.** If the property stolen or embezzled has not been delivered to the owner, the court before which a trial is had for stealing or embezzling it, upon the application of the owner to the court and on proof of his title, after reasonable notice and opportunity to be heard has been given to the person from whom custody of the property was taken and any other person as required by the court, may order it to be restored to the owner without prejudice to the state

**1411.** (a) If the ownership of the property stolen or embezzled and the address of the owner, and the address of the owner of a security interest therein, can be reasonably ascertained, the peace officer who took custody of the property shall notify the owner, and a person having a security interest therein, by letter of the location of the property and the method by which the owner may obtain it. This notice shall be given upon the conviction of a person for an offense involving the theft, embezzlement, or possession of the property, or if a conviction was not obtained, upon the making of a decision by the district attorney not to file the case or upon the termination of the proceedings in the case. Except as provided in Section 217 of the Welfare and Institutions Code, if the property stolen or embezzled is not claimed by the owner before the expiration of three months after the giving of this notice, or, in any case in which such a notice is not given, before the expiration of six months from the conviction of a person for an offense involving the theft, embezzlement, or possession of the property, or if a conviction was not obtained, then from the time the property came into the possession of the peace officer or the case involving the person from whom it was obtained is disposed of, whichever is later, the magistrate or other officer having it in custody may, on the payment of the necessary expenses incurred in its preservation, deliver it to the county treasurer or other proper county officer, by whom it shall be sold and the proceeds paid into the county treasury. However, notwithstanding any other law, if the person from whom custody of the property was taken is a secondhand dealer or licensed pawnbroker and reasonable but unsuccessful efforts have been made to notify the owner of the property and the property is no longer needed for the criminal proceeding, the property shall be returned to the secondhand dealer or pawnbroker who had custody of the property and be treated as regularly acquired property.

**PENAL CODE**

**TITLE 10 MISCELLANEOUS PROCEEDINGS**

**CHAPTER 12 DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED**

If the property is transferred to the county purchasing agent it may be sold in the manner provided by Article 7 (commencing with Section 25500) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code for the sale of surplus personal property. If the county officer determines that any of the property transferred to him or her for sale is needed for a public use, the property may be retained by the county and need not be sold. The magistrate or other officer having the property in custody may, however, provide for the sale of the property in the manner provided for the sale of unclaimed property which has been held for at least three months pursuant to Section 2080.4 of the Civil Code.

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

**1412.** When money or other property is taken from a defendant, arrested upon a charge of a public offense, the officer taking it must at the time give duplicate receipts therefor, specifying particularly the amount of money or the kind of property taken; one of which receipts he must deliver to the defendant and the other of which he must forthwith file with the Clerk of the Court to which the depositions and statement are to be sent. When such property is taken by a police officer of any incorporated city or town, he must deliver one of the receipts to the defendant, and one, with the property, at once to the Clerk or other person in charge of the police office in such city or town.

**1413.** (a) The clerk or person having charge of the property section for any police department in any incorporated city or town, or for any sheriff's department in any county, shall enter in a suitable book a description of every article of property alleged to be stolen or embezzled, and brought into the office or taken from the person of a prisoner, and shall attach a number to each article, and make a corresponding entry thereof. He may engrave or imbed an identification number in property described in Section 537e for the purposes thereof.

(b) The clerk or person in charge of the property section may, upon satisfactory proof of the ownership of property held pursuant to Section 1407, and upon presentation of proper personal identification, deliver it to the owner. Such delivery shall be without prejudice to the state or to the person from whom custody of the property was taken or to any other person who may have a claim against the property. Prior to such delivery such clerk or person in charge of the property section shall make and retain a complete photographic record of such property.



**PENAL CODE**

**TITLE 10 MISCELLANEOUS PROCEEDINGS**

**CHAPTER 12 DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED**

The person to whom property is delivered shall sign, under penalty of perjury, a declaration of ownership, which shall be retained by the clerk or person in charge of the property section. This subdivision shall not apply to any property subject to forfeiture under any provision of law. This subdivision shall not apply unless the clerk or person in charge of the property section has served upon the person from whom custody of the property was taken a notice of a claim of ownership and a copy of the satisfactory proof of ownership tendered and has allowed such person reasonable opportunity to be heard as to why the property should not be delivered to the person claiming ownership.

If the person upon whom a notice of claim and proof of ownership has been served does not respond asserting a claim to the property within 15 days from the date of receipt of the service, the property may be disposed of in a manner not inconsistent with the provisions of this section.

(c) The magistrate before whom the complaint is laid, or who examines the charge against the person accused of stealing or embezzling the property, or the court before which a trial is had for stealing or embezzling it, shall upon application by the person from whom custody of the property was taken, review the determination of the clerk or person in charge of the property section, and may order the property taken into the custody of the court upon a finding that the person to whom the property was delivered is not entitled thereto. Such court shall make its determination in the same manner as a determination is made when the matter is before the court pursuant to Sections 1408 to 1410, inclusive.

(d) The clerk or person in charge of the property section is not liable in damages for any official action performed hereunder in good faith.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**484.** (a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

(b) (1) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and that property has a value greater than one thousand dollars (\$1,000) and is not a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 10 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(2) Except as provided in Section 10855 of the Vehicle Code, where a person has leased or rented the personal property of another person pursuant to a written contract, and where the property has a value no greater than one thousand dollars (\$1,000), or where the property is a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 20 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(c) Notwithstanding the provisions of subdivision (b), if one presents with criminal intent identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental of the personal property of another, the presumption created herein shall apply upon the failure of the lessee to return the rental property at the expiration of the lease or rental agreement, and no written demand for the return of the leased or rented property shall be required.

(d) The presumptions created by subdivisions (b) and (c) are presumptions affecting the burden of producing evidence.

(e) Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**484.1.** (a) Any person who knowingly gives false information or provides false verification as to the person's true identity or as to the person's ownership interest in property or the person's authority to sell property in order to receive money or other valuable consideration from a pawnbroker or secondhand dealer and who receives money or other valuable consideration from the pawnbroker or secondhand dealer is guilty of theft.

(b) Upon conviction of the offense described in subdivision (a), the court may require, in addition to any sentence or fine imposed, that the defendant make restitution to the pawnbroker or secondhand dealer in an amount not exceeding the actual losses sustained pursuant to the provisions of subdivision (c) of Section 13967 of the Government Code, as operative on or before September 28, 1994, if the defendant is denied probation, or Section 1203.04, as operative on or before August 2, 1995, if the defendant is granted probation or Section 1202.4.

(c) Upon the setting of a court hearing date for sentencing of any person convicted under this section, the probation officer, if one is assigned, shall notify the pawnbroker or secondhand dealer or coin dealer of the time and place of the hearing.

**484b.** Any person who receives money for the purpose of obtaining or paying for services, labor, materials or equipment and willfully fails to apply such money for such purpose by either willfully failing to complete the improvements for which funds were provided or willfully failing to pay for services, labor, materials or equipment provided incident to such construction, and wrongfully diverts the funds to a use other than that for which the funds were received, shall be guilty of a public offense and shall be punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or by both that fine and that imprisonment if the amount diverted is in excess of two thousand three hundred fifty dollars (\$2,350). If the amount diverted is less than or equal to two thousand three hundred fifty dollars (\$2,350), the person shall be guilty of a misdemeanor.

**484c.** Any person who submits a false voucher to obtain construction loan funds and does not use the funds for the purpose for which the claim was submitted is guilty of embezzlement.

**484d.** As used in this section and Sections 484e to 484j, inclusive:

(1) "Cardholder" means any person to whom an access card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of an access card to another person.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(2) "Access card" means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access card, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by a paper instrument.

(3) "Expired access card" means an access card which shows on its face it has elapsed.

(4) "Card issuer" means any person who issues an access card or the agent of that person with respect to that card.

(5) "Retailer" means every person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of an access card by a cardholder.

(6) An access card is "incomplete" if part of the matter other than the signature of the cardholder which an issuer requires to appear on the access card before it can be used by a cardholder has not been stamped, embossed, imprinted, or written on it.

(7) "Revoked access card" means an access card which is no longer authorized for use by the issuer, that authorization having been suspended or terminated and written notice thereof having been given to the cardholder.

(8) "Counterfeit access card" means any access card that is counterfeit, fictitious, altered, or forged, or any false representation or depiction of an access card or a component thereof.

(9) "Traffic" means to transfer or otherwise dispose of property to another, or to obtain control of property with intent to transfer or dispose of it to another.

(10) "Card making equipment" means any equipment, machine, plate, mechanism, impression, or other device designed, used, or intended to be used to produce an access card.

**484e.** (a) Every person who, with intent to defraud, sells, transfers, or conveys, an access card, without the cardholder's or issuer's consent, is guilty of grand theft.

(b) Every person, other than the issuer, who within any consecutive 12-month period, acquires access cards issued in the names of four or more persons which he or she has reason to know were taken or retained under circumstances which constitute a violation of subdivision (a), (c), or

(d) is guilty of grand theft.

(c) Every person who, with the intent to defraud, acquires or retains possession of an access card without the cardholder's or issuer's consent, with intent to use, sell, or transfer it to a person other than the cardholder or issuer is guilty of petty theft.

(d) Every person who acquires or retains possession of access card account information with respect to an access card validly issued to another person, without the cardholder's or issuer's consent, with the intent to use it fraudulently, is guilty of grand theft.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**484f.** (a) Every person who, with the intent to defraud, designs, makes, alters, or embosses a counterfeit access card or utters or otherwise attempts to use a counterfeit access card is guilty of forgery.

(b) A person other than the cardholder or a person authorized by him or her who, with the intent to defraud, signs the name of another or of a fictitious person to an access card, sales slip, sales draft, or instrument for the payment of money which evidences an access card transaction, is guilty of forgery.

**484g.** Every person who, with the intent to defraud, (a) uses, for the purpose of obtaining money, goods, services, or anything else of value, an access card or access card account information that has been altered, obtained, or retained in violation of Section 484e or 484f, or an access card which he or she knows is forged, expired, or revoked, or (b) obtains money, goods, services, or anything else of value by representing without the consent of the cardholder that he or she is the holder of an access card and the card has not in fact been issued, is guilty of theft. If the value of all money, goods, services, and other things of value obtained in violation of this section exceeds nine hundred fifty dollars (\$950) in any consecutive six-month period, then the same shall constitute grand theft.

**484h.** Every retailer or other person who, with intent to defraud:

(a) Furnishes money, goods, services or anything else of value upon presentation of an access card obtained or retained in violation of Section 484e or an access card which he or she knows is a counterfeit access card or is forged, expired, or revoked, and who receives any payment therefor, is guilty of theft. If the payment received by the retailer or other person for all money, goods, services, and other things of value furnished in violation of this section exceeds nine hundred fifty dollars (\$950) in any consecutive six-month period, then the same shall constitute grand theft.

(b) Presents for payment a sales slip or other evidence of an access card transaction, and receives payment therefor, without furnishing in the transaction money, goods, services, or anything else of value that is equal in value to the amount of the sales slip or other evidence of an access card transaction, is guilty of theft. If the difference between the value of all money, goods, services, and anything else of value actually furnished and the payment or payments received by the retailer or other person therefor upon presentation of a sales slip or other evidence of an access card transaction exceeds nine hundred fifty dollars (\$950) in any consecutive six-month period, then the same shall constitute grand theft.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**484i.** (a) Every person who possesses an incomplete access card, with intent to complete it without the consent of the issuer, is guilty of a misdemeanor.

(b) Every person who, with the intent to defraud, makes, alters, varies, changes, or modifies access card account information on any part of an access card, including information encoded in a magnetic stripe or other medium on the access card not directly readable by the human eye, or who authorizes or consents to alteration, variance, change, or modification of access card account information by another, in a manner that causes transactions initiated by that access card to be charged or billed to a person other than the cardholder to whom the access card was issued, is guilty of forgery.

(c) Every person who designs, makes, possesses, or traffics in card making equipment or incomplete access cards with the intent that the equipment or cards be used to make counterfeit access cards, is punishable by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

**484j.** Any person who publishes the number or code of an existing, canceled, revoked, expired or nonexistent access card, personal identification number, computer password, access code, debit card number, bank account number, or the numbering or coding which is employed in the issuance of access cards, with the intent that it be used or with knowledge or reason to believe that it will be used to avoid the payment of any lawful charge, or with intent to defraud or aid another in defrauding, is guilty of a misdemeanor. As used in this section, "publishes" means the communication of information to any one or more persons, either orally, in person or by telephone, radio or television, or on a computer network or computer bulletin board, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book.

**485.** One who finds lost property under circumstances which give him knowledge of or means of inquiry as to the true owner, and who appropriates such property to his own use, or to the use of another person not entitled thereto, without first making reasonable and just efforts to find the owner and to restore the property to him, is guilty of theft.

**486.** Theft is divided into two degrees, the first of which is termed grand theft; the second, petty theft.

**487.** Grand theft is theft committed in any of the following cases:

(a) When the money, labor, or real or personal property taken is of a value exceeding nine hundred fifty dollars (\$950), except as provided in subdivision (b).

PENAL CODE

TITLE 13 OF CRIMES AGAINST PROPERTY

CHAPTER 5 LARCENY

(b) Notwithstanding subdivision (a), grand theft is committed in any of the following cases:

(1) (A) When domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding two hundred fifty dollars (\$250).

(B) For the purposes of establishing that the value of domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops under this paragraph exceeds two hundred fifty dollars (\$250), that value may be shown by the presentation of credible evidence which establishes that on the day of the theft domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops of the same variety and weight exceeded two hundred fifty dollars (\$250) in wholesale value.

(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding two hundred fifty dollars (\$250).

(3) Where the money, labor, or real or personal property is taken by a servant, agent, or employee from his or her principal or employer and aggregates nine hundred fifty dollars (\$950) or more in any 12 consecutive month period.

(c) When the property is taken from the person of another.

(d) When the property taken is any of the following:

(1) An automobile.

(2) A firearm.

**487a.** (a) Every person who feloniously steals, takes, carries, leads, or drives away any horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig, which is the personal property of another, or who fraudulently appropriates that same property which has been entrusted to him or her, or who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of that same property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of that same property, is guilty of grand theft.

(b) Every person who shall feloniously steal, take, transport or carry the carcass of any bovine, caprine, equine, ovine, or suine animal or of any mule, jack or jenny, which is the personal property of another, or who shall fraudulently appropriate such property which has been entrusted to him or her, is guilty of grand theft.

(c) Every person who shall feloniously steal, take, transport, or carry any portion of the carcass of any bovine, caprine, equine, ovine, or suine animal or of any mule, jack, or jenny, which has been killed without the consent of the owner thereof, is guilty of grand theft.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**487b.** Every person who converts real estate of the value of two hundred fifty dollars (\$250) or more into personal property by severance from the realty of another, and with felonious intent to do so, steals, takes, and carries away that property is guilty of grand theft and is punishable by imprisonment pursuant to subdivision (h) of Section 1170.

**487c.** Every person who converts real estate of the value of less than two hundred fifty dollars (\$250) into personal property by severance from the realty of another, and with felonious intent to do so steals, takes, and carries away that property is guilty of petty theft and is punishable by imprisonment in the county jail for not more than one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

**487d.** Every person who feloniously steals, takes, and carries away, or attempts to take, steal, and carry from any mining claim, tunnel, sluice, undercurrent, riffle box, or sulfurate machine, another's gold dust, amalgam, or quicksilver is guilty of grand theft and is punishable by imprisonment pursuant to subdivision (h) of Section 1170.

**487e.** Every person who feloniously steals, takes, or carries away a dog of another which is of a value exceeding nine hundred fifty dollars (\$950) is guilty of grand theft.

**487f.** Every person who feloniously steals, takes, or carries away a dog of another which is of a value not exceeding nine hundred fifty dollars (\$950) is guilty of petty theft.

**487g.** Every person who steals or maliciously takes or carries away any animal of another for purposes of sale, medical research, slaughter, or other commercial use, or who knowingly, by any false representation or pretense, defrauds another person of any animal for purposes of sale, medical research, slaughter, or other commercial use is guilty of a public offense punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**487h. (a)** Every person who steals, takes, or carries away cargo of another, if the cargo taken is of a value exceeding nine hundred fifty dollars (\$950), except as provided in Sections 487, 487a, and 487d, is guilty of grand theft.

**(b)** For the purposes of this section, "cargo" means any goods, wares, products, or manufactured merchandise that has been loaded into a trailer, railcar, or cargo container, awaiting or in transit.

**487i.** Any person who defrauds a housing program of a public housing authority of more than four hundred dollars (\$400) is guilty of grand theft.



**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**487j.** Every person who steals, takes, or carries away copper materials of another, including, but not limited to, copper wire, copper cable, copper tubing, and copper piping, which are of a value exceeding nine hundred fifty dollars (\$950) is guilty of grand theft. Grand theft of copper shall be punishable by a fine not exceeding two thousand five hundred dollars (\$2,500), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170 and a fine not exceeding ten thousand dollars (\$10,000).

**488.** Theft in other cases is petty theft.

**489.** Grand theft is punishable as follows:

(a) If the grand theft involves the theft of a firearm, by imprisonment in the state prison for 16 months, or two or three years.

(b) If the grand theft involves a violation of Section 487a, by imprisonment in a county jail not exceeding one year or pursuant to subdivision (h) of Section 1170, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine and imprisonment. The proceeds of this fine shall be allocated to the Bureau of Livestock Identification to be used, upon appropriation by the Legislature, for purposes relating to the investigation of cases involving grand theft of any animal or animals, or of the carcass or carcasses of, or any portion of the carcass or carcasses of, any animal specified in Section 487a.

(c) In all other cases, by imprisonment in a county jail not exceeding one year or pursuant to subdivision (h) of Section 1170.

**490.** Petty theft is punishable by fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or both.

**490a.** Wherever any law or statute of this state refers to or mentions larceny, embezzlement, or stealing, said law or statute shall hereafter be read and interpreted as if the word "theft" were substituted therefor.

**490.1.** (a) Petty theft, where the value of the money, labor, real or personal property taken is of a value which does not exceed fifty dollars (\$50), may be charged as a misdemeanor or an infraction, at the discretion of the prosecutor, provided that the person charged with the offense has no other theft or theft-related conviction.

(b) Any offense charged as an infraction under this section shall be subject to the provisions of subdivision (d) of Section 17 and Sections 19.6 and 19.7.

A violation which is an infraction under this section is punishable by a fine not exceeding two hundred fifty dollars (\$250).

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**490.2.** (a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars (\$950) shall be considered petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.

(c) This section shall not apply to theft of a firearm.

**490.5.** (a) Upon a first conviction for petty theft involving merchandise taken from a merchant's premises or a book or other library materials taken from a library facility, a person shall be punished by a mandatory fine of not less than fifty dollars (\$50) and not more than one thousand dollars (\$1,000) for each such violation; and may also be punished by imprisonment in the county jail, not exceeding six months, or both such fine and imprisonment.

(b) When an unemancipated minor's willful conduct would constitute petty theft involving merchandise taken from a merchant's premises or a book or other library materials taken from a library facility, any merchant or library facility who has been injured by that conduct may bring a civil action against the parent or legal guardian having control and custody of the minor. For the purposes of those actions the misconduct of the unemancipated minor shall be imputed to the parent or legal guardian having control and custody of the minor. The parent or legal guardian having control or custody of an unemancipated minor whose conduct violates this subdivision shall be jointly and severally liable with the minor to a merchant or to a library facility for damages of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), plus costs. In addition to the foregoing damages, the parent or legal guardian shall be jointly and severally liable with the minor to the merchant for the retail value of the merchandise if it is not recovered in a merchantable condition, or to a library facility for the fair market value of its book or other library materials. Recovery of these damages may be had in addition to, and is not limited by, any other provision of law which limits the liability of a parent or legal guardian for the tortious conduct of a minor. An action for recovery of damages, pursuant to this subdivision, may be brought in small claims court if the total damages do not exceed the jurisdictional limit of that court, or in any other appropriate court; however, total damages, including the value of the merchandise or book or other library materials, shall not exceed five hundred dollars (\$500) for each action brought under this section.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

The provisions of this subdivision are in addition to other civil remedies and do not limit merchants or other persons to elect to pursue other civil remedies, except that the provisions of Section 1714.1 of the Civil Code shall not apply herein.

(c) When an adult or emancipated minor has unlawfully taken merchandise from a merchant's premises, or a book or other library materials from a library facility, the adult or emancipated minor shall be liable to the merchant or library facility for damages of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), plus costs. In addition to the foregoing damages, the adult or emancipated minor shall be liable to the merchant for the retail value of the merchandise if it is not recovered in merchantable condition, or to a library facility for the fair market value of its book or other library materials. An action for recovery of damages, pursuant to this subdivision, may be brought in small claims court if the total damages do not exceed the jurisdictional limit of such court, or in any other appropriate court. The provisions of this subdivision are in addition to other civil remedies and do not limit merchants or other persons to elect to pursue other civil remedies.

(d) In lieu of the fines prescribed by subdivision (a), any person may be required to perform public services designated by the court, provided that in no event shall any such person be required to perform less than the number of hours of such public service necessary to satisfy the fine assessed by the court as provided by subdivision (a) at the minimum wage prevailing in the state at the time of sentencing.

(e) All fines collected under this section shall be collected and distributed in accordance with Sections 1463 and 1463.1 of the Penal Code; provided, however, that a county may, by a majority vote of the members of its board of supervisors, allocate any amount up to, but not exceeding 50 percent of such fines to the county superintendent of schools for allocation to local school districts. The fines allocated shall be administered by the county superintendent of schools to finance public school programs, which provide counseling or other educational services designed to discourage shoplifting, theft, and burglary. Subject to rules and regulations as may be adopted by the Superintendent of Public Instruction, each county superintendent of schools shall allocate such funds to school districts within the county which submit project applications designed to further the educational purposes of this section. The costs of administration of this section by each county superintendent of schools shall be paid from the funds allocated to the county superintendent of schools.

(f) (1) A merchant may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the merchant has probable cause to believe the person to be detained is attempting to unlawfully take or has unlawfully taken merchandise from the merchant's premises.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

A theater owner may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the theater owner has probable cause to believe the person to be detained is attempting to operate a video recording device within the premises of a motion picture theater without the authority of the owner of the theater.

A person employed by a library facility may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the person employed by a library facility has probable cause to believe the person to be detained is attempting to unlawfully remove or has unlawfully removed books or library materials from the premises of the library facility.

(2) In making the detention a merchant, theater owner, or a person employed by a library facility may use a reasonable amount of nondeadly force necessary to protect himself or herself and to prevent escape of the person detained or the loss of tangible or intangible property.

(3) During the period of detention any items which a merchant or theater owner, or any items which a person employed by a library facility has probable cause to believe are unlawfully taken from the premises of the merchant or library facility, or recorded on theater premises, and which are in plain view may be examined by the merchant, theater owner, or person employed by a library facility for the purposes of ascertaining the ownership thereof.

(4) A merchant, theater owner, a person employed by a library facility, or an agent thereof, having probable cause to believe the person detained was attempting to unlawfully take or has taken any item from the premises, or was attempting to operate a video recording device within the premises of a motion picture theater without the authority of the owner of the theater, may request the person detained to voluntarily surrender the item or recording. Should the person detained refuse to surrender the recording or item of which there is probable cause to believe has been recorded on or unlawfully taken from the premises, or attempted to be recorded or unlawfully taken from the premises, a limited and reasonable search may be conducted by those authorized to make the detention in order to recover the item. Only packages, shopping bags, handbags or other property in the immediate possession of the person detained, but not including any clothing worn by the person, may be searched pursuant to this subdivision. Upon surrender or discovery of the item, the person detained may also be requested, but may not be required, to provide adequate proof of his or her true identity.

(5) If any person admitted to a theater in which a motion picture is to be or is being exhibited, refuses or fails to give or surrender possession or to cease operation of any video recording device that the person has brought into or attempts to bring into that theater, then a theater owner shall have the right to refuse admission to that person or request that the person leave the premises and shall thereupon offer to refund and, unless that offer is refused, refund to that person the price paid by that person for admission to that theater.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

If the person thereafter refuses to leave the theater or cease operation of the video recording device, then the person shall be deemed to be intentionally interfering with and obstructing those attempting to carry on a lawful business within the meaning of Section 602.1.

(6) A peace officer who accepts custody of a person arrested for an offense contained in this section may, subsequent to the arrest, search the person arrested and his or her immediate possessions for any item or items alleged to have been taken.

(7) In any civil action brought by any person resulting from a detention or arrest by a merchant, it shall be a defense to such action that the merchant detaining or arresting such person had probable cause to believe that the person had stolen or attempted to steal merchandise and that the merchant acted reasonably under all the circumstances.

In any civil action brought by any person resulting from a detention or arrest by a theater owner or person employed by a library facility, it shall be a defense to that action that the theater owner or person employed by a library facility detaining or arresting that person had probable cause to believe that the person was attempting to operate a video recording device within the premises of a motion picture theater without the authority of the owner of the theater or had stolen or attempted to steal books or library materials and that the person employed by a library facility acted reasonably under all the circumstances.

(g) As used in this section:

(1) "Merchandise" means any personal property, capable of manual delivery, displayed, held or offered for retail sale by a merchant.

(2) "Merchant" means an owner or operator, and the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises used for the retail purchase or sale of any personal property capable of manual delivery.

(3) "Theater owner" means an owner or operator, and the agent, employee, consignee, lessee, or officer of an owner or operator, of any premises used for the exhibition or performance of motion pictures to the general public.

(4) The terms "book or other library materials" include any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual material in any format, magnetic or other tape, electronic data-processing record, artifact, or other documentary, written or printed material regardless of physical form or characteristics, or any part thereof, belonging to, on loan to, or otherwise in the custody of a library facility.

(5) The term "library facility" includes any public library; any library of an educational, historical or eleemosynary institution, organization or society; any museum; any repository of public records.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(h) Any library facility shall post at its entrance and exit a conspicuous sign to read as follows: "IN ORDER TO PREVENT THE THEFT OF BOOKS AND LIBRARY MATERIALS, STATE LAW AUTHORIZES THE DETENTION FOR A REASONABLE PERIOD OF ANY PERSON USING THESE FACILITIES SUSPECTED OF COMMITTING "LIBRARY THEFT" (PENAL CODE SECTION 490.5)."

**490.6.** (a) A person employed by an amusement park may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the person employed by the amusement park has probable cause to believe the person to be detained is violating lawful amusement park rules.

(b) If any person admitted to an amusement park refuses or fails to follow lawful amusement park rules, after being so informed, then an amusement park employee may request that the person either comply or leave the premises. If the person refuses to leave the premises or comply with lawful park rules, then the person shall be deemed to be intentionally interfering with and obstructing those attempting to carry on a lawful business within the meaning of Section 602.1.

(c) In any civil action brought by any person resulting from a detention or an arrest by a person employed by an amusement park, it shall be a defense to that action that the amusement park employee detaining or arresting the person had probable cause to believe that the person was not following lawful amusement park rules and that the amusement park employee acted reasonably under all the circumstances.

**490.7.** (a) The Legislature finds that free newspapers provide a key source of information to the public, in many cases providing an important alternative to the news and ideas expressed in other local media sources. The Legislature further finds that the unauthorized taking of multiple copies of free newspapers, whether done to sell them to recycling centers, to injure a business competitor, to deprive others of the opportunity to read them, or for any other reason, injures the rights of readers, writers, publishers, and advertisers, and impoverishes the marketplace of ideas in California.

(b) No person shall take more than twenty-five (25) copies of the current issue of a free or complimentary newspaper if done with the intent to do one or more of the following:

- (1) Recycle the newspapers for cash or other payment.
- (2) Sell or barter the newspaper.
- (3) Deprive others of the opportunity to read or enjoy the newspaper.
- (4) Harm a business competitor.

(c) This section does not apply to the owner or operator of the newsrack in which the copies are placed, the owner or operator of the property on which the newsrack is placed, the publisher, the printer, the distributor, the deliverer of the newspaper, or to any advertiser in that issue, or to any other person who has the express permission to do so from any of these entities.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(d) Any newspaper publisher may provide express permission to take more than twenty-five (25) copies of the current issue of a free or complimentary newspaper by indicating on the newsrack or in the newspaper itself, that people may take a greater number of copies if they wish.

(e) A first violation of subdivision (b) shall be an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250). A second or subsequent violation shall be punishable as an infraction or a misdemeanor. A misdemeanor conviction under this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment of up to 10 days in a county jail, or by both that fine and imprisonment. The court may order community service in lieu of the punishment otherwise provided for an infraction or misdemeanor in the amount of 20 hours for an infraction, and 40 hours for a misdemeanor. A misdemeanor conviction under this section shall not constitute a conviction for petty theft.

(f) This section shall not be construed to repeal, modify, or weaken any existing legal prohibitions against the taking of private property.

(g) For purposes of this section, an issue is current if no more than half of the period of time until the distribution of the next issue has passed.

**491.** Dogs are personal property, and their value is to be ascertained in the same manner as the value of other property.

**492.** If the thing stolen consists of any evidence of debt, or other written instrument, the amount of money due thereupon, or secured to be paid thereby, and remaining unsatisfied, or which in any contingency might be collected thereon, or the value of the property the title to which is shown thereby, or the sum which might be recovered in the absence thereof, is the value of the thing stolen.

**493.** If the thing stolen is any ticket or other paper or writing entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railroad or vessel or other public conveyance, the price at which tickets entitling a person to a like passage are usually sold by the proprietors of such conveyance is the value of such ticket, paper, or writing.

**494.** All the provisions of this Chapter apply where the property taken is an instrument for the payment of money, evidence of debt, public security, or passage ticket, completed and ready to be issued or delivered, although the same has never been issued or delivered by the makers thereof to any person as a purchaser or owner.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**495.** The provisions of this Chapter apply where the thing taken is any fixture or part of the realty, and is severed at the time of the taking, in the same manner as if the thing had been severed by another person at some previous time.

**496. (a)** Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in a county jail for not more than one year, or imprisonment pursuant to subdivision (h) of Section 1170. However, if the value of the property does not exceed nine hundred fifty dollars (\$950), the offense shall be a misdemeanor, punishable only by imprisonment in a county jail not exceeding one year, if such person has no prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290. A principal in the actual theft of the property may be convicted pursuant to this section. However, no person may be convicted both pursuant to this section and of the theft of the same property.

(b) Every swap meet vendor, as defined in Section 21661 of the Business and Professions Code, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value in excess of nine hundred fifty dollars (\$950) that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be punished by imprisonment in a county jail for not more than one year, or imprisonment pursuant to subdivision (h) of Section 1170.

Every swap meet vendor, as defined in Section 21661 of the Business and Professions Code, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value of nine hundred fifty dollars (\$950) or less that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be guilty of a misdemeanor.

(c) Any person who has been injured by a violation of subdivision (a) or (b) may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit, and reasonable attorney's fees.



**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(d) Notwithstanding Section 664, any attempt to commit any act prohibited by this section, except an offense specified in the accusatory pleading as a misdemeanor, is punishable by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

**496a.** (a) Every person who is a dealer in or collector of junk, metals, or secondhand materials, or the agent, employee, or representative of such dealer or collector, and who buys or receives any wire, cable, copper, lead, solder, mercury, iron, or brass which he or she knows or reasonably should know is ordinarily used by or ordinarily belongs to a railroad or other transportation, telephone, telegraph, gas, water, or electric light company, or a county, city, city and county, or other political subdivision of this state engaged in furnishing public utility service, without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving that property, and shall be punished by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Any person who buys or receives material pursuant to subdivision (a) shall obtain evidence of his or her identity from the seller, including, but not limited to, that person's full name, signature, address, driver's license number, and vehicle license number, and the license number of the vehicle delivering the material.

(c) The record of the transaction shall include an appropriate description of the material purchased and the record shall be maintained pursuant to Section 21607 of the Business and Professions Code.

**496b.** Every person who, being a dealer in or collector of second-hand books or other literary material, or the agent, employee or representative of such dealer, or collector, buys or receives any book, manuscript, map, chart, or other work of literature, belonging to, and bearing any mark or indicia of ownership by a public or incorporated library, college or university, without ascertaining by diligent inquiry that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving such property in the first degree if such property be of the value of more than fifty dollars, and is punishable by imprisonment in the county jail for not more than one year, or by a fine of not more than twice the value of the property received, or by both such fine and imprisonment; and is guilty of criminally receiving such property in the second degree if such property be of the value of fifty dollars or under, and is punishable by imprisonment in the county jail for not more than one month, or by a fine of not more than twice the value of the property received, or by both such fine and imprisonment.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**496c.** Any person who shall copy, transcribe, photograph or otherwise make a record or memorandum of the contents of any private and unpublished paper, book, record, map or file, containing information relating to the title to real property or containing information used in the business of examining, certifying or insuring titles to real property and belonging to any person, firm or corporation engaged in the business of examining, certifying, or insuring titles to real property, without the consent of the owner of such paper, book, record, map or file, and with the intent to use the same or the contents thereof, or to dispose of the same or the contents thereof to others for use, in the business of examining, certifying, or insuring titles to real property, shall be guilty of theft, and any person who shall induce another to violate the provisions of this section by giving, offering, or promising to such another any gift, gratuity, or thing of value or by doing or promising to do any act beneficial to such another, shall be guilty of theft; and any person who shall receive or acquire from another any copy, transcription, photograph or other record or memorandum of the contents of any private and unpublished paper, book, record, map or file containing information relating to the title to real property or containing information used in the business of examining, certifying or insuring titles to real property, with the knowledge that the same or the contents thereof has or have been acquired, prepared or compiled in violation of this section shall be guilty of theft. The contents of any such private and unpublished paper, book, record, map or file is hereby defined to be personal property, and in determining the value thereof for the purposes of this section the cost of acquiring and compiling the same shall be the test.

**496d.** (a) Every person who buys or receives any motor vehicle, as defined in Section 415 of the Vehicle Code, any trailer, as defined in Section 630 of the Vehicle Code, any special construction equipment, as defined in Section 565 of the Vehicle Code, or any vessel, as defined in Section 21 of the Harbors and Navigation Code, that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any motor vehicle, trailer, special construction equipment, or vessel from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months or two or three years or a fine of not more than ten thousand dollars (\$10,000), or both, or by imprisonment in a county jail not to exceed one year or a fine of not more than one thousand dollars (\$1,000), or both.

(b) For the purposes of this section, the terms "special construction equipment" and "vessel" are limited to motorized vehicles and vessels.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**496e.** (a) Any person who is engaged in the salvage, recycling, purchase, or sale of scrap metal and who possesses any of the following items that were owned or previously owned by any public agency, city, county, city and county, special district, or private utility that have been stolen or obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or fails to report possession of the items pursuant to Section 21609.1 of the Business and Professions Code, is guilty of a crime:

- (1) A fire hydrant or any reasonably recognizable part of that hydrant.
- (2) Any fire department connection, including, but not limited to, reasonably recognizable bronze or brass fittings and parts.
- (3) Manhole covers or lids, or any reasonably recognizable part of those manhole covers and lids.
- (4) Backflow devices and connections to that device, or any part of that device.

(b) A person who violates subdivision (a) shall, in addition to any other penalty provided by law, be subject to a criminal fine of not more than three thousand dollars (\$3,000).

**497.** Every person who, in another state or country steals or embezzles the property of another, or receives such property knowing it to have been stolen or embezzled, and brings the same into this state, may be convicted and punished in the same manner as if such larceny, or embezzlement, or receiving, had been committed in this state.

**498.** (a) The following definitions govern the construction of this section:

- (1) "Person" means any individual, or any partnership, firm, association, corporation, limited liability company, or other legal entity.
- (2) "Utility" means any electrical, gas, or water corporation as those terms are defined in the Public Utilities Code, and electrical, gas, or water systems operated by any political subdivision.
- (3) "Customer" means the person in whose name utility service is provided.
- (4) "Utility service" means the provision of electricity, gas, water, or any other service provided by the utility for compensation.
- (5) "Divert" means to change the intended course or path of electricity, gas, or water without the authorization or consent of the utility.
- (6) "Tamper" means to rearrange, injure, alter, interfere with, or otherwise prevent from performing a normal or customary function.
- (7) "Reconnection" means the reconnection of utility service by a customer or other person after service has been lawfully disconnected by the utility.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(b) Any person who, with intent to obtain for himself or herself utility services without paying the full lawful charge therefor, or with intent to enable another person to do so, or with intent to deprive any utility of any part of the full lawful charge for utility services it provides, commits, authorizes, solicits, aids, or abets any of the following shall be guilty of a misdemeanor

(1) Diverts or causes to be diverted utility services, by any means.

(2) Prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by any other means.

(3) Tampers with any property owned by or used by the utility to provide utility services.

(4) Makes or causes to be made any connection with or reconnection with property owned or used by the utility to provide utility services without the authorization or consent of the utility.

(5) Uses or receives the direct benefit of all or a portion of utility services with knowledge or reason to believe that the diversion, tampering, or unauthorized connection existed at the time of that use, or that the use or receipt was otherwise without the authorization or consent of the utility.

(c) In any prosecution under this section, the presence of any of the following objects, circumstances, or conditions on premises controlled by the customer or by the person using or receiving the direct benefit of all or a portion of utility services obtained in violation of this section shall permit an inference that the customer or person intended to and did violate this section:

(1) Any instrument, apparatus, or device primarily designed to be used to obtain utility services without paying the full lawful charge therefor.

(2) Any meter that has been altered, tampered with, or bypassed so as to cause no measurement or inaccurate measurement of utility services.

(d) If the value of all utility services obtained in violation of this section totals more than nine hundred fifty dollars (\$950) or if the defendant has previously been convicted of an offense under this section or any former section which would be an offense under this section, or of an offense under the laws of another state or of the United States which would have been an offense under this section if committed in this state, then the violation is punishable by imprisonment in a county jail for not more than one year, or in the state prison.

(e) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**499.** (a) Any person who, having been convicted of a previous violation of Section 10851 of the Vehicle Code, or of subdivision (d) of Section 487, involving a vehicle or vessel, and having served a term therefor in any penal institution or having been imprisoned therein as a condition of probation for the offense, is subsequently convicted of a violation of Section 499b, involving a vehicle or vessel, is punishable for the subsequent offense by imprisonment in the county jail not exceeding one year or the state prison for 16 months, two, or three years.

(b) Any person convicted of a violation of Section 499b, who has been previously convicted under charges separately brought and tried two or more times of a violation of Section 499b, all such violations involving a vehicle or vessel, and who has been imprisoned therefore as a condition of probation or otherwise at least once, is punishable by imprisonment in the county jail for not more than one year or in the state prison for 16 months, two, or three years.

(c) This section shall become operative on January 1, 1997.

**499b.** (a) Any person who shall, without the permission of the owner thereof, take any bicycle for the purpose of temporarily using or operating the same, is guilty of a misdemeanor, and shall be punishable by a fine not exceeding four hundred dollars (\$400), or by imprisonment in a county jail not exceeding three months, or by both that fine and imprisonment.

(b) Any person who shall, without the permission of the owner thereof, take any vessel for the purpose of temporarily using or operating the same, is guilty of a misdemeanor, and shall be punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

**499c.** (a) As used in this section:

(1) "Access" means to approach, a way or means of approaching, nearing, admittance to, including to instruct, communicate with, store information in, or retrieve information from a computer system or computer network.

(2) "Article" means any object, material, device, or substance or copy thereof, including any writing, record, recording, drawing, sample, specimen, prototype, model, photograph, micro-organism, blueprint, map, or tangible representation of a computer program or information, including both human and computer readable information and information while in transit.

(3) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he or she is interested.

(4) "Computer system" means a machine or collection of machines, one or more of which contain computer programs and information, that performs functions, including, but not limited to, logic, arithmetic, information storage and retrieval, communications, and control.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

- (5) "Computer network" means an interconnection of two or more computer systems.
- (6) "Computer program" means an ordered set of instructions or statements, and related information that, when automatically executed in actual or modified form in a computer system, causes it to perform specified functions.
- (7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article.
- (8) "Representing" means describing, depicting, containing, constituting, reflecting or recording.
- (9) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:
- (A) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
- (B) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (b) Every person is guilty of theft who, with intent to deprive or withhold the control of a trade secret from its owner, or with an intent to appropriate a trade secret to his or her own use or to the use of another, does any of the following:
- (1) Steals, takes, carries away, or uses without authorization, a trade secret.
- (2) Fraudulently appropriates any article representing a trade secret entrusted to him or her.
- (3) Having unlawfully obtained access to the article, without authority makes or causes to be made a copy of any article representing a trade secret.
- (4) Having obtained access to the article through a relationship of trust and confidence, without authority and in breach of the obligations created by that relationship, makes or causes to be made, directly from and in the presence of the article, a copy of any article representing a trade secret.
- (c) Every person who promises, offers or gives, or conspires to promise or offer to give, to any present or former agent, employee or servant of another, a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a trade secret owned by his or her present or former principal, employer or master, to any person not authorized by the owner to receive or acquire the trade secret and every present or former agent, employee, or servant, who solicits, accepts, receives or takes a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a trade secret owned by his or her present or former principal, employer or master, to any person not authorized by the owner to receive or acquire the trade secret, shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine and imprisonment.
- (d) In a prosecution for a violation of this section, it shall be no defense that the person returned or intended to return the article.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**499d.** Any person who operates or takes an aircraft not his own, without the consent of the owner thereof, and with intent to either permanently or temporarily deprive the owner thereof of his title to or possession of such vehicle, whether with or without intent to steal the same, or any person who is a party or accessory to or an accomplice in any operation or unauthorized taking or stealing is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than ten thousand dollars (\$10,000) or by both that fine and imprisonment.

**500.** (a) Any person who receives money for the actual or purported purpose of transmitting the same or its equivalent to foreign countries as specified in Section 1800.5 of the Financial Code who fails to do at least one of the following acts unless otherwise instructed by the customer is guilty of a misdemeanor or felony as set forth in subdivision (b):

(1) Forward the money as represented to the customer within 10 days of receipt of the funds.

(2) Give instructions within 10 days of receipt of the customer's funds, committing equivalent funds to the person designated by the customer.

(3) Refund to the customer any money not forwarded as represented within 10 days of the customer's written request for a refund pursuant to subdivision (a) of Section 1810.5 of the Financial Code.

(b) (1) If the total value of the funds received from the customer is less than nine hundred fifty dollars (\$950), the offense set forth in subdivision (a) is punishable by imprisonment in a county jail not exceeding one year or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) If the total value of the money received from the customer is nine hundred fifty dollars (\$950) or more, or if the total value of all moneys received by the person from different customers is nine hundred fifty dollars (\$950) or more, and the receipts were part of a common scheme or plan, the offense set forth in subdivision (a) is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, two, or three years, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine.

**501.** Upon a trial for larceny or embezzlement of money, bank notes, certificates of stock, or valuable securities, the allegation of the indictment or information, so far as regards the description of the property, is sustained, if the offender be proved to have embezzled or stolen any money, bank notes, certificates of stock, or valuable security, although the particular species of coin or other money, or the number, denomination, or kind of bank notes,

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

certificates of stock, or valuable security, is not proved; and upon a trial for embezzlement, if the offender is proved to have embezzled any piece of coin or other money, any bank note, certificate of stock, or valuable security, although the piece of coin or other money, or bank note, certificate of stock, or valuable security, may have been delivered to him or her in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly.

**502.** (a) It is the intent of the Legislature in enacting this section to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems. The Legislature finds and declares that the proliferation of computer technology has resulted in a concomitant proliferation of computer crime and other forms of unauthorized access to computers, computer systems, and computer data.

The Legislature further finds and declares that protection of the integrity of all types and forms of lawfully created computers, computer systems, and computer data is vital to the protection of the privacy of individuals as well as to the well-being of financial institutions, business concerns, governmental agencies, and others within this state that lawfully utilize those computers, computer systems, and data.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Access" means to gain entry to, instruct, cause input to, cause output from, cause data processing with, or communicate with, the logical, arithmetical, or memory function resources of a computer, computer system, or computer network.

(2) "Computer network" means any system that provides communications between one or more computer systems and input/output devices, including, but not limited to, display terminals, remote systems, mobile devices, and printers connected by telecommunication facilities.

(3) "Computer program or software" means a set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.

(4) "Computer services" includes, but is not limited to, computer time, data processing, or storage functions, Internet services, electronic mail services, electronic message services, or other uses of a computer, computer system, or computer network.

(5) "Computer system" means a device or collection of devices, including support devices and excluding calculators that are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions, including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.



**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(6) "Government computer system" means any computer system, or part thereof, that is owned, operated, or used by any federal, state, or local governmental entity.

(7) "Public safety infrastructure computer system" means any computer system, or part thereof, that is necessary for the health and safety of the public including computer systems owned, operated, or used by drinking water and wastewater treatment facilities, hospitals, emergency service providers, telecommunication companies, and gas and electric utility companies.

(8) "Data" means a representation of information, knowledge, facts, concepts, computer software, or computer programs or instructions. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit or presented on a display device.

(9) "Supporting documentation" includes, but is not limited to, all information, in any form, pertaining to the design, construction, classification, implementation, use, or modification of a computer, computer system, computer network, computer program, or computer software, which information is not generally available to the public and is necessary for the operation of a computer, computer system, computer network, computer program, or computer software.

(10) "Injury" means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access, or the denial of access to legitimate users of a computer system, network, or program.

(11) "Victim expenditure" means any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, deleted, damaged, or destroyed by the access.

(12) "Computer contaminant" means any set of computer instructions that are designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the computer, computer system, or computer network.

(13) "Internet domain name" means a globally unique, hierarchical reference to an Internet host or service, assigned through centralized Internet naming authorities, comprising a series of character strings separated by periods, with the rightmost character string specifying the top of the hierarchy.

(14) "Electronic mail" means an electronic message or computer file that is transmitted between two or more telecommunications devices; computers; computer networks, regardless of whether the network is a local, regional, or global network; or electronic devices capable of receiving electronic messages, regardless of whether the message is converted to hard copy format after receipt, viewed upon transmission, or stored for later retrieval.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(15) "Profile" means either of the following:

(A) A configuration of user data required by a computer so that the user may access programs or services and have the desired functionality on that computer.

(B) An Internet Web site user's personal page or section of a page that is made up of data, in text or graphical form, that displays significant, unique, or identifying information, including, but not limited to, listing acquaintances, interests, associations, activities, or personal statements.

(c) Except as provided in subdivision (h), any person who commits any of the following acts is guilty of a public offense:

(1) Knowingly accesses and without permission alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data.

(2) Knowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network, or takes or copies any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network.

(3) Knowingly and without permission uses or causes to be used computer services.

(4) Knowingly accesses and without permission adds, alters, damages, deletes, or destroys any data, computer software, or computer programs which reside or exist internal or external to a computer, computer system, or computer network.

(5) Knowingly and without permission disrupts or causes the disruption of computer services or denies or causes the denial of computer services to an authorized user of a computer, computer system, or computer network.

(6) Knowingly and without permission provides or assists in providing a means of accessing a computer, computer system, or computer network in violation of this section.

(7) Knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network.

(8) Knowingly introduces any computer contaminant into any computer, computer system, or computer network.

(9) Knowingly and without permission uses the Internet domain name or profile of another individual, corporation, or entity in connection with the sending of one or more electronic mail messages or posts and thereby damages or causes damage to a computer, computer data, computer system, or computer network.

(10) Knowingly and without permission disrupts or causes the disruption of government computer services or denies or causes the denial of government computer services to an authorized user of a government computer, computer system, or computer network.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(11) Knowingly accesses and without permission adds, alters, damages, deletes, or destroys any data, computer software, or computer programs which reside or exist internal or external to a public safety infrastructure computer system computer, computer system, or computer network.

(12) Knowingly and without permission disrupts or causes the disruption of public safety infrastructure computer system computer services or denies or causes the denial of computer services to an authorized user of a public safety infrastructure computer system computer, computer system, or computer network.

(13) Knowingly and without permission provides or assists in providing a means of accessing a computer, computer system, or public safety infrastructure computer system computer, computer system, or computer network in violation of this section.

(14) Knowingly introduces any computer contaminant into any public safety infrastructure computer system computer, computer system, or computer network.

(d) (1) Any person who violates any of the provisions of paragraph (1), (2), (4), (5), (10), (11), or (12) of subdivision (c) is guilty of a felony, punishable by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years and a fine not exceeding ten thousand dollars (\$10,000), or a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding five thousand dollars (\$5,000), or by both that fine and imprisonment.

(2) Any person who violates paragraph (3) of subdivision (c) is punishable as follows:

(A) For the first violation that does not result in injury, and where the value of the computer services used does not exceed nine hundred fifty dollars (\$950), by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in a victim expenditure in an amount greater than five thousand dollars (\$5,000) or in an injury, or if the value of the computer services used exceeds nine hundred fifty dollars (\$950), or for any second or subsequent violation, by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(3) Any person who violates paragraph (6), (7), or (13) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars (\$1,000).

(B) For any violation that results in a victim expenditure in an amount not greater than five thousand dollars (\$5,000), or for a second or subsequent violation, by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(C) For any violation that results in a victim expenditure in an amount greater than five thousand dollars (\$5,000), by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(4) Any person who violates paragraph (8) or (14) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, a misdemeanor punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.

(5) Any person who violates paragraph (9) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars (\$1,000).

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(e) (1) In addition to any other civil remedy available, the owner or lessee of the computer, computer system, computer network, computer program, or data who suffers damage or loss by reason of a violation of any of the provisions of subdivision (c) may bring a civil action against the violator for compensatory damages and injunctive relief or other equitable relief. Compensatory damages shall include any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.

(2) In any action brought pursuant to this subdivision the court may award reasonable attorney's fees.

(3) A community college, state university, or academic institution accredited in this state is required to include computer-related crimes as a specific violation of college or university student conduct policies and regulations that may subject a student to disciplinary sanctions up to and including dismissal from the academic institution. This paragraph shall not apply to the University of California unless the Board of Regents adopts a resolution to that effect.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(4) In any action brought pursuant to this subdivision for a willful violation of the provisions of subdivision (c), where it is proved by clear and convincing evidence that a defendant has been guilty of oppression, fraud, or malice as defined in subdivision (c) of Section 3294 of the Civil Code, the court may additionally award punitive or exemplary damages.

(5) No action may be brought pursuant to this subdivision unless it is initiated within three years of the date of the act complained of, or the date of the discovery of the damage, whichever is later.

(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction, nor shall it make illegal any employee labor relations activities that are within the scope and protection of state or federal labor laws.

(g) Any computer, computer system, computer network, or any software or data, owned by the defendant, that is used during the commission of any public offense described in subdivision (c) or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of subdivision (c) shall be subject to forfeiture, as specified in Section 502.01.

(h) (1) Subdivision (c) does not apply to punish any acts which are committed by a person within the scope of his or her lawful employment. For purposes of this section, a person acts within the scope of his or her employment when he or she performs acts which are reasonably necessary to the performance of his or her work assignment.

(2) Paragraph (3) of subdivision (c) does not apply to penalize any acts committed by a person acting outside of his or her lawful employment, provided that the employee's activities do not cause an injury, to the employer or another, or provided that the value of supplies or computer services which are used does not exceed an accumulated total of two hundred fifty dollars (\$250).

(i) No activity exempted from prosecution under paragraph (2) of subdivision (h) which incidentally violates paragraph (2), (4), or (7) of subdivision (c) shall be prosecuted under those paragraphs.

(j) For purposes of bringing a civil or a criminal action under this section, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in each jurisdiction.

(k) In determining the terms and conditions applicable to a person convicted of a violation of this section the court shall consider the following:

(1) The court shall consider prohibitions on access to and use of computers.

(2) Except as otherwise required by law, the court shall consider alternate sentencing, including community service, if the defendant shows remorse and recognition of the wrongdoing, and an inclination not to repeat the offense.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**502.01.** (a) As used in this section:

(1) "Property subject to forfeiture" means any property of the defendant that is illegal telecommunications equipment as defined in subdivision (g) of Section 502.8, or a computer, computer system, or computer network, and any software or data residing thereon, if the telecommunications device, computer, computer system, or computer network was used in committing a violation of, or conspiracy to commit a violation of, subdivision (b) of Section 272, Section 288, 288.2, 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, 311.11, 422, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, or 530.5, 537e, 593d, 593e, 646.9, or subdivision (j) of Section 647, or was used as a repository for the storage of software or data obtained in violation of those provisions.

Forfeiture shall not be available for any property used solely in the commission of an infraction. If the defendant is a minor, it also includes property of the parent or guardian of the defendant.

(2) "Sentencing court" means the court sentencing a person found guilty of violating or conspiring to commit a violation of subdivision (b) of Section 272, Section 288, 288.2, 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, 311.11, 422, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, 530.5, 537e, 593d, 593e, 646.9, or subdivision (j) of Section 647, or, in the case of a minor, found to be a person described in Section 602 of the Welfare and Institutions Code because of a violation of those provisions, the juvenile court.

(3) "Interest" means any property interest in the property subject to forfeiture.

(4) "Security interest" means an interest that is a lien, mortgage, security interest, or interest under a conditional sales contract.

(5) "Value" has the following meanings:

(A) When counterfeit items of computer software are manufactured or possessed for sale, the "value" of those items shall be equivalent to the retail price or fair market price of the true items that are counterfeited.

(B) When counterfeited but unassembled components of computer software packages are recovered, including, but not limited to, counterfeited computer diskettes, instruction manuals, or licensing envelopes, the "value" of those components of computer software packages shall be equivalent to the retail price or fair market price of the number of completed computer software packages that could have been made from those components.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(b) The sentencing court shall, upon petition by the prosecuting attorney, at any time following sentencing, or by agreement of all parties, at the time of sentencing, conduct a hearing to determine whether any property or property interest is subject to forfeiture under this section. At the forfeiture hearing, the prosecuting attorney shall have the burden of establishing, by a preponderance of the evidence, that the property or property interests are subject to forfeiture. The prosecuting attorney may retain seized property that may be subject to forfeiture until the sentencing hearing.

(c) (1) Prior to the commencement of a forfeiture proceeding, the law enforcement agency seizing the property subject to forfeiture shall make an investigation as to any person other than the defendant who may have an interest in it. At least 30 days before the hearing to determine whether the property should be forfeited, the prosecuting agency shall send notice of the hearing to any person who may have an interest in the property that arose before the seizure.

(2) A person claiming an interest in the property shall file a motion for the redemption of that interest at least 10 days before the hearing on forfeiture, and shall send a copy of the motion to the prosecuting agency and to the probation department.

(3) If a motion to redeem an interest has been filed, the sentencing court shall hold a hearing to identify all persons who possess valid interests in the property. No person shall hold a valid interest in the property if, by a preponderance of the evidence, the prosecuting agency shows that the person knew or should have known that the property was being used in violation of, or conspiracy to commit a violation of, subdivision (b) of Section 272, Section 288, 288.2, 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, 311.11, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, 530.5, 537e, 593d, 593e, 646.9, or subdivision (j) of Section 647, and that the person did not take reasonable steps to prevent that use, or if the interest is a security interest, the person knew or should have known at the time that the security interest was created that the property would be used for a violation.

(d) If the sentencing court finds that a person holds a valid interest in the property, the following provisions shall apply:

(1) The court shall determine the value of the property.

(2) The court shall determine the value of each valid interest in the property.

(3) If the value of the property is greater than the value of the interest, the holder of the interest shall be entitled to ownership of the property upon paying the court the difference between the value of the property and the value of the valid interest.

If the holder of the interest declines to pay the amount determined under paragraph (2),

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

the court may order the property sold and designate the prosecutor or any other agency to sell the property. The designated agency shall be entitled to seize the property and the holder of the interest shall forward any documentation underlying the interest, including any ownership certificates for that property, to the designated agency. The designated agency shall sell the property and pay the owner of the interest the proceeds, up to the value of that interest.

(4) If the value of the property is less than the value of the interest, the designated agency shall sell the property and pay the owner of the interest the proceeds, up to the value of that interest.

(e) If the defendant was a minor at the time of the offense, this subdivision shall apply to property subject to forfeiture that is the property of the parent or guardian of the minor.

(1) The prosecuting agency shall notify the parent or guardian of the forfeiture hearing at least 30 days before the date set for the hearing.

(2) The computer or telecommunications device shall not be subject to forfeiture if the parent or guardian files a signed statement with the court at least 10 days before the date set for the hearing that the minor shall not have access to any computer or telecommunications device owned by the parent or guardian for two years after the date on which the minor is sentenced.

(3) If the minor is convicted of a violation of Section 288, 288.2, 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, 311.11, 470, 470a, 472, 476, 480, or subdivision (b) of Section 484e, subdivision (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, 530.5, or subdivision (j) of Section 647, within two years after the date on which the minor is sentenced, and the violation involves a computer or telecommunications device owned by the parent or guardian, the original property subject to forfeiture, and the property involved in the new offense, shall be subject to forfeiture notwithstanding paragraph (2).

(4) Notwithstanding paragraph (1), (2), or (3), or any other provision of this chapter, if a minor's parent or guardian makes full restitution to the victim of a crime enumerated in this chapter in an amount or manner determined by the court, the forfeiture provisions of this chapter do not apply to the property of that parent or guardian if the property was located in the family's primary residence during the commission of the crime.

(f) Notwithstanding any other provision of this chapter, the court may exercise its discretion to deny forfeiture where the court finds that the convicted defendant, or minor adjudicated to come within the jurisdiction of the juvenile court, is not likely to use the property otherwise subject to forfeiture for future illegal acts.

(g) If the defendant is found to have the only valid interest in the property subject to forfeiture, it shall be distributed as follows:



**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(1) First, to the victim, if the victim elects to take the property as full or partial restitution for injury, victim expenditures, or compensatory damages, as defined in paragraph (1) of subdivision (e) of Section 502. If the victim elects to receive the property under this paragraph, the value of the property shall be determined by the court and that amount shall be credited against the restitution owed by the defendant. The victim shall not be penalized for electing not to accept the forfeited property in lieu of full or partial restitution.

(2) Second, at the discretion of the court, to one or more of the following agencies or entities:

(A) The prosecuting agency.

(B) The public entity of which the prosecuting agency is a part.

(C) The public entity whose officers or employees conducted the investigation resulting in forfeiture.

(D) Other state and local public entities, including school districts.

(E) Nonprofit charitable organizations.

(h) If the property is to be sold, the court may designate the prosecuting agency or any other agency to sell the property at auction. The proceeds of the sale shall be distributed by the court as follows:

(1) To the bona fide or innocent purchaser or encumbrancer, conditional sales vendor, or mortgagee of the property up to the amount of his or her interest in the property, if the court orders a distribution to that person.

(2) The balance, if any, to be retained by the court, subject to the provisions for distribution under subdivision (g).

**502.5** Every person who, after mortgaging or encumbering by deed of trust any real property, and during the existence of such mortgage or deed of trust, or after such mortgaged or encumbered property shall have been sold under an order and decree of foreclosure or at trustee's sale, and with intent to defraud or injure the mortgagee or the beneficiary or trustee, under such deed of trust, his representatives, successors or assigns, or the purchaser of such mortgaged or encumbered premises at such foreclosure or trustee's sale, his representatives, successors or assigns, takes, removes or carries away from such mortgaged or encumbered premises, or otherwise disposes of or permits the taking, removal or carrying away or otherwise disposing of any house, barn, windmill, water tank, pump, engine or other part of the freehold that is attached or affixed to such premises as an improvement thereon, without the written consent of the mortgagee or beneficiary, under deed of trust, his representatives, successors or assigns, or the purchaser at such foreclosure or trustee's sale, his representatives, successors or assigns, is guilty of larceny and shall be punished accordingly.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

**502.6.** (a) Any person who knowingly, willfully, and with the intent to defraud, possesses a scanning device, or who knowingly, willfully, and with intent to defraud, uses a scanning device to access, read, obtain, memorize or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card is guilty of a misdemeanor, punishable by a term in a county jail not to exceed one year, or a fine of one thousand dollars (\$1,000), or both the imprisonment and fine.

(b) Any person who knowingly, willfully, and with the intent to defraud, possesses a reencoder, or who knowingly, willfully, and with intent to defraud, uses a reencoder to place encoded information on the magnetic strip or stripe of a payment card or any electronic medium that allows an authorized transaction to occur, without the permission of the authorized user of the payment card from which the information is being reencoded is guilty of a misdemeanor, punishable by a term in a county jail not to exceed one year, or a fine of one thousand dollars (\$1,000), or both the imprisonment and fine.

(c) Any scanning device or reencoder described in subdivision (e) owned by the defendant and possessed or used in violation of subdivision (a) or (b) may be seized and be destroyed as contraband by the sheriff of the county in which the scanning device or reencoder was seized.

(d) Any computer, computer system, computer network, or any software or data, owned by the defendant, which is used during the commission of any public offense described in this section or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of this section shall be subject to forfeiture.

(e) As used in this section, the following definitions apply:

(1) "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

(2) "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a payment card on to the magnetic strip or stripe of a different payment card.

(3) "Payment card" means a credit card, debit card, or any other card that is issued to an authorized user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value.

(f) Nothing in this section shall preclude prosecution under any other provision of law.

**502.7.** (a) Any person who, knowingly, willfully, and with intent to defraud a person providing telephone or telegraph service, avoids or attempts to avoid, or aids, abets or causes another to avoid the lawful charge, in whole or in part, for telephone or telegraph service by any of the following means is guilty of a misdemeanor or a felony, except as provided in subdivision (g):

(1) By charging the service to an existing telephone number or credit card number without the authority of the subscriber thereto or the lawful holder thereof.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(2) By charging the service to a nonexistent telephone number or credit card number, or to a number associated with telephone service which is suspended or terminated, or to a revoked or canceled (as distinguished from expired) credit card number, notice of the suspension, termination, revocation, or cancellation of the telephone service or credit card having been given to the subscriber thereto or the holder thereof.

(3) By use of a code, prearranged scheme, or other similar stratagem or device whereby the person, in effect, sends or receives information.

(4) By rearranging, tampering with, or making connection with telephone or telegraph facilities or equipment, whether physically, electrically, acoustically, inductively, or otherwise, or by using telephone or telegraph service with knowledge or reason to believe that the rearrangement, tampering, or connection existed at the time of the use.

(5) By using any other deception, false pretense, trick, scheme, device, conspiracy, or means, including the fraudulent use of false, altered, or stolen identification.

(b) Any person who does either of the following is guilty of a misdemeanor or a felony, except as provided in subdivision (g):

(1) Makes, possesses, sells, gives, or otherwise transfers to another, or offers or advertises any instrument, apparatus, or device with intent to use it or with knowledge or reason to believe it is intended to be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph message.

(2) Sells, gives, or otherwise transfers to another or offers, or advertises plans or instructions for making or assembling an instrument, apparatus, or device described in paragraph (1) of this subdivision with knowledge or reason to believe that they may be used to make or assemble the instrument, apparatus, or device.

(c) Any person who publishes the number or code of an existing, canceled, revoked, expired, or nonexistent credit card, or the numbering or coding which is employed in the issuance of credit cards, with the intent that it be used or with knowledge or reason to believe that it will be used to avoid the payment of any lawful telephone or telegraph toll charge is guilty of a misdemeanor. Subdivision (g) shall not apply to this subdivision. As used in this section, "publishes" means the communication of information to any one or more persons, either orally, in person or by telephone, radio, or television, or electronic means, including, but not limited to, a bulletin board system, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper, or magazine article, or book.

(d) Any person who is the issuee of a calling card, credit card, calling code, or any other means or device for the legal use of telecommunications services and who receives anything of value for knowingly allowing another person to use the means or device in order to fraudulently obtain telecommunications services is guilty of a misdemeanor or a felony, except as provided in subdivision (g).

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(e) Subdivision (a) applies when the telephone or telegraph communication involved either originates or terminates, or both originates and terminates, in this state, or when the charges for service would have been billable, in normal course, by a person providing telephone or telegraph service in this state, but for the fact that the charge for service was avoided, or attempted to be avoided, by one or more of the means set forth in subdivision (a).

(f) Jurisdiction of an offense under this section is in the jurisdictional territory where the telephone call or telegram involved in the offense originates or where it terminates, or the jurisdictional territory to which the bill for the service is sent or would have been sent but for the fact that the service was obtained or attempted to be obtained by one or more of the means set forth in subdivision (a).

(g) Theft of any telephone or telegraph services under this section by a person who has a prior misdemeanor or felony conviction for theft of services under this section within the past five years, is a felony.

(h) Any person or telephone company defrauded by any acts prohibited under this section shall be entitled to restitution for the entire amount of the charges avoided from any person or persons convicted under this section.

(i) Any instrument, apparatus, device, plans, instructions, or written publication described in subdivision (b) or (c) may be seized under warrant or incident to a lawful arrest, and, upon the conviction of a person for a violation of subdivision (a), (b), or (c), the instrument, apparatus, device, plans, instructions, or written publication may be destroyed as contraband by the sheriff of the county in which the person was convicted or turned over to the person providing telephone or telegraph service in the territory in which it was seized.

(j) Any computer, computer system, computer network, or any software or data, owned by the defendant, which is used during the commission of any public offense described in this section or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of this section shall be subject to forfeiture.

**502.8.** (a) Any person who knowingly advertises illegal telecommunications equipment is guilty of a misdemeanor.

(b) Any person who possesses or uses illegal telecommunications equipment intending to avoid the payment of any lawful charge for telecommunications service or to facilitate other criminal conduct is guilty of a misdemeanor.

(c) Any person found guilty of violating subdivision (b), who has previously been convicted of the same offense, shall be guilty of a felony, punishable by imprisonment in state prison, a fine of up to fifty thousand dollars (\$50,000), or both.

(d) Any person who possesses illegal telecommunications equipment with intent to sell, transfer, or furnish or offer to sell, transfer, or furnish the equipment to another, intending to avoid the payment of any lawful charge for telecommunications service or to facilitate other criminal conduct is guilty of a misdemeanor punishable by one year in a county jail or imprisonment in state prison or a fine of up to ten thousand dollars (\$10,000), or both.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 5 LARCENY**

(e) Any person who possesses 10 or more items of illegal telecommunications equipment with intent to sell or offer to sell the equipment to another, intending to avoid payment of any lawful charge for telecommunications service or to facilitate other criminal conduct, is guilty of a felony, punishable by imprisonment in state prison, a fine of up to fifty thousand dollars (\$50,000), or both.

(f) Any person who manufactures 10 or more items of illegal telecommunications equipment with intent to sell or offer to sell the equipment to another, intending to avoid the payment of any lawful charge for telecommunications service or to facilitate other criminal conduct is guilty of a felony punishable by imprisonment in state prison or a fine of up to fifty thousand dollars (\$50,000), or both.

(g) For purposes of this section, "illegal telecommunications equipment" means equipment that operates to evade the lawful charges for any telecommunications service; surreptitiously intercept electronic serial numbers or mobile identification numbers; alter electronic serial numbers; circumvent efforts to confirm legitimate access to a telecommunications account; conceal from any telecommunications service provider or lawful authority the existence, place of origin, or destination of any telecommunication; or otherwise facilitate any other criminal conduct. "Illegal telecommunications equipment" includes, but is not limited to, any unauthorized electronic serial number or mobile identification number, whether incorporated into a wireless telephone or other device or otherwise. Items specified in this subdivision shall be considered illegal telecommunications equipment notwithstanding any statement or disclaimer that the items are intended for educational, instructional, or similar purposes.

(h) (1) In the event that a person violates the provisions of this section with the intent to avoid the payment of any lawful charge for telecommunications service to a telecommunications service provider, the court shall order the person to pay restitution to the telecommunications service provider in an amount that is the greater of the following:

(A) Five thousand dollars (\$5,000).

(B) Three times the amount of actual damages, if any, sustained by the telecommunications service provider, plus reasonable attorney fees.

(2) It is not a necessary prerequisite to an order of restitution under this section that the telecommunications service provider has suffered, or be threatened with, actual damages.

**502.9.** Upon conviction of a felony violation under this chapter, the fact that the victim was an elder or dependent person, as defined in Section 288, shall be considered a circumstance in aggravation when imposing a term under subdivision (b) of Section 1170.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**528.** Every person who falsely personates another, and in such assumed character marries or pretends to marry, or to sustain the marriage relation towards another, with or without the connivance of such other, is guilty of a felony.

**528.5** (a) Notwithstanding any other provision of law, any person who knowingly and without consent credibly impersonates another actual person through or on an Internet Web site or by other electronic means for purposes of harming, intimidating, threatening, or defrauding another person is guilty of a public offense punishable pursuant to subdivision (d).

(b) For purposes of this section, an impersonation is credible if another person would reasonably believe, or did reasonably believe, that the defendant was or is the person who was impersonated.

(c) For purposes of this section, "electronic means" shall include opening an e-mail account or an account or profile on a social networking Internet Web site in another person's name.

(d) A violation of subdivision (a) is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(e) In addition to any other civil remedy available, a person who suffers damage or loss by reason of a violation of subdivision (a) may bring a civil action against the violator for compensatory damages and injunctive relief or other equitable relief pursuant to paragraphs (1), (2), (4), and (5) of subdivision (e) and subdivision (g) of Section 502.

(f) This section shall not preclude prosecution under any other law.

**529.** (a) Every person who falsely personates another in either his or her private or official capacity, and in that assumed character does any of the following, is punishable pursuant to subdivision (b):

(1) Becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take that bail or surety.

(2) Verifies, publishes, acknowledges, or proves, in the name of another person, any written instrument, with intent that the same may be recorded, delivered, or used as true.

(3) Does any other act whereby, if done by the person falsely personated, he might, in any event, become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture, or penalty, or whereby any benefit might accrue to the party personating, or to any other person.

(b) By a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**529a.** Every person who manufactures, produces, sells, offers, or transfers to another any document purporting to be either a certificate of birth or certificate of baptism, knowing such document to be false or counterfeit and with the intent to deceive, is guilty of a crime, and upon conviction therefor, shall be punished by imprisonment in a county jail not to exceed one year, or by imprisonment pursuant to subdivision (h) of Section 1170. Every person who offers, displays, or has in his or her possession any false or counterfeit certificate of birth or certificate of baptism, or any genuine certificate of birth which describes a person then living or deceased, with intent to represent himself or herself as another or to conceal his or her true identity, is guilty of a crime, and upon conviction therefor, shall be punished by imprisonment in the county jail not to exceed one year.

**529.5.** (a) Every person who manufactures, sells, offers for sale, or transfers any document, not amounting to counterfeit, purporting to be a government-issued identification card or driver's license, which by virtue of the wording or appearance thereon could reasonably deceive an ordinary person into believing that it is issued by a government agency, and who knows that the document is not a government-issued document, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

(b) Any person who, having been convicted of a violation of subdivision (a), is subsequently convicted of a violation of subdivision (a), is punishable for the subsequent conviction by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars (\$5,000), or by both the fine and imprisonment.

(c) Any person who possesses a document described in subdivision (a) and who knows that the document is not a government-issued document is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) and not more than two thousand five hundred dollars (\$2,500). The misdemeanor fine shall be imposed except in unusual cases where the interests of justice would be served. The court may allow an offender to work off the fine by doing community service. If community service work is not available, the misdemeanor shall be punishable by a fine of up to one thousand dollars (\$1,000), based on the person's ability to pay.

(d) If an offense specified in this section is committed by a person when he or she is under 21 years of age, but is 13 years of age or older, the court also may suspend the person's driving privilege for one year, pursuant to Section 13202.5 of the Vehicle Code.

**529.7.** Any person who obtains, or assists another person in obtaining, a driver's license, identification card, vehicle registration certificate, or any other official document issued by the Department of Motor Vehicles, with knowledge that the person obtaining the document is not entitled to the document, is guilty of a misdemeanor, and is punishable by imprisonment in a county jail for up to one year, or a fine of up to one thousand dollars (\$1,000), or both.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**530.** Every person who falsely personates another, in either his private or official capacity, and in such assumed character receives any money or property, knowing that it is intended to be delivered to the individual so personated, with intent to convert the same to his own use, or to that of another person, or to deprive the true owner thereof, is punishable in the same manner and to the same extent as for larceny of the money or property so received.

**530.5** (a) Every person who willfully obtains personal identifying information, as defined in subdivision (b) of Section 530.55, of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, real property, or medical information without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.

(b) In any case in which a person willfully obtains personal identifying information of another person, uses that information to commit a crime in addition to a violation of subdivision (a), and is convicted of that crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did not commit the crime.

(c) (1) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment.

(2) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person, and who has previously been convicted of a violation of this section, upon conviction therefor shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.

(3) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of 10 or more other persons is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.

(d) (1) Every person who, with the intent to defraud, sells, transfers, or conveys the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.

(2) Every person who, with actual knowledge that the personal identifying information, as defined in subdivision (b) of Section 530.55, of a specific person will be used to commit a violation of subdivision (a), sells, transfers, or conveys that same personal identifying information is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment pursuant to subdivision (h) of Section 1170, or by both a fine and imprisonment.



## PENAL CODE

### TITLE 13 OF CRIMES AGAINST PROPERTY

#### CHAPTER 8 FALSE PERSONATION AND CHEATS

(e) Every person who commits mail theft, as defined in Section 1708 of Title 18 of the United States Code, is guilty of a public offense, and upon conviction therefor shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment.

Prosecution under this subdivision shall not limit or preclude prosecution under any other provision of law, including, but not limited to, subdivisions (a) to (c), inclusive, of this section.

(f) An interactive computer service or access software provider, as defined in subsection (f) of Section 230 of Title 47 of the United States Code, shall not be liable under this section unless the service or provider acquires, transfers, sells, conveys, or retains possession of personal information with the intent to defraud.

**530.55.** (a) For purposes of this chapter, "person" means a natural person, living or deceased, firm, association, organization, partnership, business trust, company, corporation, limited liability company, or public entity, or any other legal entity.

(b) For purposes of this chapter, "personal identifying information" means any name, address, telephone number, health insurance number, taxpayer identification number, school identification number, state or federal driver's license, or identification number, social security number, place of employment, employee identification number, professional or occupational number, mother's maiden name, demand deposit account number, savings account number, checking account number, PIN (personal identification number) or password, alien registration number, government passport number, date of birth, unique biometric data including fingerprint, facial scan identifiers, voiceprint, retina or iris image, or other unique physical representation, unique electronic data including information identification number assigned to the person, address or routing code, telecommunication identifying information or access device, information contained in a birth or death certificate, or credit card number of an individual person, or an equivalent form of identification.

**530.6.** (a) A person who has learned or reasonably suspects that his or her personal identifying information has been unlawfully used by another, as described in subdivision (a) of Section 530.5, may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over his or her actual residence or place of business, which shall take a police report of the matter, provide the complainant with a copy of that report, and begin an investigation of the facts. If the suspected crime was committed in a different jurisdiction, the local law enforcement agency may refer the matter to the law enforcement agency where the suspected crime was committed for further investigation of the facts.

(b) A person who reasonably believes that he or she is the victim of identity theft may petition a court, or the court, on its own motion or upon application of the prosecuting attorney, may move, for an expedited judicial determination of his or her factual innocence, where the perpetrator of the identity theft was arrested for, cited for, or convicted of a crime under the victim's identity, or where a criminal complaint has been filed against the perpetrator in the victim's name, or where the victim's identity has been mistakenly associated with a record of criminal conviction.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

Any judicial determination of factual innocence made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or other material, relevant, and reliable information submitted by the parties or ordered to be part of the record by the court. Where the court determines that the petition or motion is meritorious and that there is no reasonable cause to believe that the victim committed the offense for which the perpetrator of the identity theft was arrested, cited, convicted, or subject to a criminal complaint in the victim's name, or that the victim's identity has been mistakenly associated with a record of criminal conviction, the court shall find the victim factually innocent of that offense. If the victim is found factually innocent, the court shall issue an order certifying this determination.

(c) After a court has issued a determination of factual innocence pursuant to this section, the court may order the name and associated personal identifying information contained in court records, files, and indexes accessible by the public deleted, sealed, or labeled to show that the data is impersonated and does not reflect the defendant's identity.

(d) A court that has issued a determination of factual innocence pursuant to this section may at any time vacate that determination if the petition, or any information submitted in support of the petition, is found to contain any material misrepresentation or fraud.

(e) The Judicial Council of California shall develop a form for use in issuing an order pursuant to this section.

(f) For purposes of this section, "person" means a natural person, firm, association, organization, partnership, business trust, company, corporation, limited liability company, or public entity.

**530.7.** (a) In order for a victim of identity theft to be included in the data base established pursuant to subdivision (c), he or she shall submit to the Department of Justice a court order obtained pursuant to any provision of law, a full set of fingerprints, and any other information prescribed by the department.

(b) Upon receiving information pursuant to subdivision (a), the Department of Justice shall verify the identity of the victim against any driver's license or other identification record maintained by the Department of Motor Vehicles.

(c) The Department of Justice shall establish and maintain a data base of individuals who have been victims of identity theft. The department shall provide a victim of identity theft or his or her authorized representative access to the data base in order to establish that the individual has been a victim of identity theft. Access to the data base shall be limited to criminal justice agencies, victims of identity theft, and individuals and agencies authorized by the victims.

(d) The Department of Justice shall establish and maintain a toll-free telephone number to provide access to information under subdivision (c).

(e) This section shall be operative September 1, 2001.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**530.8.** (a) If a person discovers that an application in his or her name for a loan, credit line or account, credit card, charge card, public utility service, mail receiving or forwarding service, office or desk space rental service, or commercial mobile radio service has been filed with any person or entity by an unauthorized person, or that an account in his or her name has been opened with a bank, trust company, savings association, credit union, public utility, mail receiving or forwarding service, office or desk space rental service, or commercial mobile radio service provider by an unauthorized person, then, upon presenting to the person or entity with which the application was filed or the account was opened a copy of a police report prepared pursuant to Section 530.6 and identifying information in the categories of information that the unauthorized person used to complete the application or to open the account, the person, or a law enforcement officer specified by the person, shall be entitled to receive information related to the application or account, including a copy of the unauthorized person's application or application information and a record of transactions or charges associated with the application or account. Upon request by the person in whose name the application was filed or in whose name the account was opened, the person or entity with which the application was filed shall inform him or her of the categories of identifying information that the unauthorized person used to complete the application or to open the account. The person or entity with which the application was filed or the account was opened shall provide copies of all paper records, records of telephone applications or authorizations, or records of electronic applications or authorizations required by this section, without charge, within 10 business days of receipt of the person's request and submission of the required copy of the police report and identifying information.

(b) Any request made pursuant to subdivision (a) to a person or entity subject to the provisions of Section 2891 of the Public Utilities Code shall be in writing and the requesting person shall be deemed to be the subscriber for purposes of that section.

(c) (1) Before a person or entity provides copies to a law enforcement officer pursuant to subdivision (a), the person or entity may require the requesting person to submit a signed and dated statement by which the requesting person does all of the following:

(A) Authorizes disclosure for a stated period.

(B) Specifies the name of the agency or department to which the disclosure is authorized.

(C) Identifies the types of records that the requesting person authorizes to be disclosed.

(2) The person or entity shall include in the statement to be signed by the requesting person a notice that the requesting person has the right at any time to revoke the authorization.

(d) (1) A failure to produce records pursuant to subdivision (a) shall be addressed by the court in the jurisdiction in which the victim resides or in which the request for information was issued. At the victim's request, the Attorney General, the district attorney, or the prosecuting city attorney may file a petition to compel the attendance of the person or entity in possession of the records, as described in subdivision (a), and order the production of the requested records to the court. The petition shall contain a declaration from the victim stating when the request for information was made, that the information requested was not provided, and what response, if any, was made by the person or entity.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

The petition shall also contain copies of the police report prepared pursuant to Section 530.6 and the request for information made pursuant to this section upon the person or entity in possession of the records, as described in subdivision (a), and these two documents shall be kept confidential by the court. The petition and copies of the police report and the application shall be served upon the person or entity in possession of the records, as described in subdivision (a). The court shall hold a hearing on the petition no later than 10 court days after the petition is served and filed. The court shall order the release of records to the victim as required pursuant to this section.

(2) In addition to any other civil remedy available, the victim may bring a civil action against the entity for damages, injunctive relief or other equitable relief, and a penalty of one hundred dollars (\$100) per day of noncompliance, plus reasonable attorneys' fees.

(e) For the purposes of this section, the following terms have the following meanings:

(1) "Application" means a new application for credit or service, the addition of authorized users to an existing account, the renewal of an existing account, or any other changes made to an existing account.

(2) "Commercial mobile radio service" means "commercial mobile radio service" as defined in Section 20.3 of Title 47 of the Code of Federal Regulations.

(3) "Law enforcement officer" means a peace officer as defined by Section 830.1.

**531.** Every person who is a party to any fraudulent conveyance of any lands, tenements, or hereditaments, goods or chattels, or any right or interest issuing out of the same, or to any bond, suit, judgment, or execution, contract or conveyance, had, made, or contrived with intent to deceive and defraud others, or to defeat, hinder, or delay creditors or others of their just debts, damages, or demands; or who, being a party as aforesaid, at any time wittingly and willingly puts in, uses, avows, maintains, justifies, or defends the same, or any of them, as true, and done, had, or made in good faith, or upon good consideration, or aliens, assigns, or sells any of the lands, tenements, hereditaments, goods, chattels, or other things before mentioned, to him or them conveyed as aforesaid, or any part thereof, is guilty of a misdemeanor.

**531a.** Every person who, with intent to defraud, knowingly executes or procures another to execute any instrument purporting to convey any real property, or any right or interest therein, knowing that such person so executing has no right to or interest in such property, or who files or procures the filing of any such instrument, knowing that the person executing the same had no right, title or interest in the property so purported to be conveyed, is guilty of a misdemeanor and is punishable by imprisonment for not more than one year or by fine of five thousand dollars or both.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**532.** (a) Every person who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money, labor, or property, whether real or personal, or who causes or procures others to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtains credit, and thereby fraudulently gets possession of money or property, or obtains the labor or service of another, is punishable in the same manner and to the same extent as for larceny of the money or property so obtained.

(b) Upon a trial for having, with an intent to cheat or defraud another designedly, by any false pretense, obtained the signature of any person to a written instrument, or having obtained from any person any labor, money, or property, whether real or personal, or valuable thing, the defendant cannot be convicted if the false pretense was expressed in language unaccompanied by a false token or writing, unless the pretense, or some note or memorandum thereof is in writing, subscribed by or in the handwriting of the defendant, or unless the pretense is proven by the testimony of two witnesses, or that of one witness and corroborating circumstances. This section does not apply to a prosecution for falsely representing or personating another, and, in that assumed character, marrying, or receiving any money or property.

**532a.** (1) Any person who shall knowingly make or cause to be made, either directly or indirectly or through any agency whatsoever, any false statement in writing, with intent that it shall be relied upon, respecting the financial condition, or means or ability to pay, of himself or herself, or any other person, firm or corporation, in whom he or she is interested, or for whom he or she is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the execution of a contract of guaranty or suretyship, the discount of an account receivable, or the making, acceptance, discount, sale or endorsement of a bill of exchange, or promissory note, for the benefit of either himself or herself or of that person, firm or corporation shall be guilty of a public offense.

(2) Any person who knowing that a false statement in writing has been made, respecting the financial condition or means or ability to pay, of himself or herself, or a person, firm or corporation in which he or she is interested, or for whom he or she is acting, procures, upon the faith thereof, for the benefit either of himself or herself, or of that person, firm or corporation, either or any of the things of benefit mentioned in the first subdivision of this section shall be guilty of a public offense.

(3) Any person who knowing that a statement in writing has been made, respecting the financial condition or means or ability to pay of himself or herself or a person, firm or corporation, in which he or she is interested, or for whom he or she is acting, represents on a later day in writing that the statement theretofore made, if then again made on said day, would be then true, when in fact, said statement if then made would be false, and procures upon the faith thereof, for the benefit either of himself or herself or of that person, firm or corporation either or any of the things of benefit mentioned in the first subdivision of this section shall be guilty of a public offense.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

(4) Any person committing a public offense under subdivision (1), (2), or (3) shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment. Any person who violates the provisions of subdivision (1), (2), or (3), by using a fictitious name, social security number, business name, or business address, or by falsely representing himself or herself to be another person or another business, is guilty of a felony and is punishable by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment, or by a fine not exceeding two thousand five hundred dollars (\$2,500) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(5) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction.

**532b.** (a) A person who fraudulently represents himself or herself as a veteran or ex-serviceman of a war in which the United States was engaged, in connection with the soliciting of aid or the sale or attempted sale of any property, is guilty of a misdemeanor.

(b) A person who fraudulently claims, or presents himself or herself, to be a veteran or member of the Armed Forces of the United States, the California National Guard, the State Military Reserve, the Naval Militia, the national guard of any other state, or any other reserve component of the Armed Forces of the United States, with the intent to obtain money, property, or other tangible benefit, is guilty of a misdemeanor.

(c) (1) Except as provided in paragraph (2), a person who, orally, in writing, or by wearing any military decoration, fraudulently represents himself or herself to have been awarded a military decoration, with the intent to obtain money, property, or other tangible benefit, is guilty of a misdemeanor.

(2) This offense is an infraction or a misdemeanor, subject to Sections 19.6, 19.7, and 19.8, if the person committing the offense is a veteran of the Armed Forces of the United States.

(d) A person who forges documentation reflecting the awarding of a military decoration that he or she has not received for the purposes of obtaining money, property, or receiving a tangible benefit is guilty of a misdemeanor.

(e) A person who knowingly, with the intent to impersonate and to deceive, for the purposes of obtaining money, property, or receiving a tangible benefit, misrepresents himself or herself as a member or veteran of the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia by wearing the uniform or military decoration authorized for use by the members or veterans of those forces, is guilty of a misdemeanor.

(f) A person who knowingly utilizes falsified military identification for the purposes of obtaining money, property, or receiving a tangible benefit, is guilty of a misdemeanor.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

(g) A person who knowingly, with the intent to impersonate, for the purposes of promoting a business, charity, or endeavor, misrepresents himself or herself as a member or veteran of the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia by wearing the uniform or military decoration authorized for use by the members or veterans of those forces, is guilty of a misdemeanor.

(h) A person who knowingly, with the intent to gain an advantage for employment purposes, misrepresents himself or herself as a member or veteran of the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia by wearing the uniform or military decoration authorized for use by the members or veterans of those forces, is guilty of a misdemeanor.

(i) This section does not apply to face-to-face solicitations involving less than ten dollars (\$10).

(j) This section, Section 3003 of the Government Code, and Section 1821 of the Military and Veterans Code shall be known, and may be cited as, the California Stolen Valor Act.

(k) For purposes of this section, the following terms shall have the following meanings:

(1) "Military decoration" means any decoration or medal from the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia, or any service medals or badges awarded to the members of those forces, or the ribbon, button, or rosette of that badge, decoration, or medal, or any colorable imitation of that item.

(2) "Tangible benefit" means financial remuneration, an effect on the outcome of a criminal or civil court proceeding, or any benefit relating to service in the military that is provided by a federal, state, or local governmental entity.

**532c.** Any person, firm, corporation or copartnership who knowingly and designedly offers or gives with winning numbers at any drawing of numbers or with tickets of admission to places of public assemblage, any lot or parcel of real property and charges or collects fees in connection with the transfer thereof, is guilty of a misdemeanor.

**532d.** (a) Any person who solicits or attempts to solicit or receives money or property of any kind for a charitable, religious or eleemosynary purpose and who, directly or indirectly, makes, utters, or delivers, either orally or in writing, an unqualified statement of fact concerning the purpose or organization for which the money or property is solicited or received, or concerning the cost and expense of solicitation or the manner in which the money or property or any part thereof is to be used, which statement is in fact false and was made, uttered, or delivered by that person either willfully and with knowledge of its falsity or negligently without due consideration of those facts which by the use of ordinary care he or she should have known, is guilty of a misdemeanor, and is punishable by imprisonment in the county jail for not more than one year, by a fine not exceeding five thousand dollars (\$5,000), or by both that imprisonment and fine.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

(b) An offense charged in violation of this section shall be proven by the testimony of one witness and corroborating circumstances.

(c) Nothing contained in this section shall be construed to limit the right of any city, county, or city and county to adopt regulations for charitable solicitations which are not in conflict with this section.

**532e.** Any person who receives money for the purpose of obtaining or paying for services, labor, materials or equipment incident to constructing improvements on real property and willfully rebates any part of the money to or on behalf of anyone contracting with such person, for provision of the services, labor, materials or equipment for which the money was given, shall be guilty of a misdemeanor; provided, however, that normal trade discount for prompt payment shall not be considered a violation of this section.

**532f.** (a) A person commits mortgage fraud if, with the intent to defraud, the person does any of the following:

(1) Deliberately makes any misstatement, misrepresentation, or omission during the mortgage lending process with the intention that it be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process.

(2) Deliberately uses or facilitates the use of any misstatement, misrepresentation, or omission, knowing the same to contain a misstatement, misrepresentation, or omission, during the mortgage lending process with the intention that it be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process.

(3) Receives any proceeds or any other funds in connection with a mortgage loan closing that the person knew resulted from a violation of paragraph (1) or (2) of this subdivision.

(4) Files or causes to be filed with the recorder of any county in connection with a mortgage loan transaction any document the person knows to contain a deliberate misstatement, misrepresentation, or omission.

(b) An offense involving mortgage fraud shall not be based solely on information lawfully disclosed pursuant to federal disclosure laws, regulations, or interpretations related to the mortgage lending process.

(c) (1) Notwithstanding any other provision of law, an order for the production of any or all relevant records possessed by a real estate recordholder in whatever form and however stored may be issued by a judge upon a written ex parte application made under penalty of perjury by a peace officer stating that there are reasonable grounds to believe that the records sought are relevant and material to an ongoing investigation of a felony fraud violation.

(2) The ex parte application shall specify with particularity the records to be produced, which shall relate to a party or parties in the criminal investigation.

(3) Relevant records may include, but are not limited to, purchase contracts, loan applications, settlement statements, closing statements, escrow instructions, payoff demands, disbursement reports, or checks.



**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

(4) The ex parte application and any subsequent judicial order may be ordered sealed by the court upon a sufficient showing that it is necessary for the effective continuation of the investigation.

(5) The records ordered to be produced shall be provided to the peace officer applicant or his or her designee within a reasonable time period after service of the order upon the real estate recordholder.

(d) (1) Nothing in this section shall preclude the real estate recordholder from notifying a customer of the receipt of the order for production of records, unless a court orders the real estate recordholder to withhold notification to the customer upon a finding that this notice would impede the investigation.

(2) If a court has made an order to withhold notification to the customer under this subdivision, the peace officer who or law enforcement agency that obtained the records shall notify the customer by delivering a copy of the ex parte order to the customer within 10 days of the termination of the investigation.

(e) (1) Nothing in this section shall preclude the real estate recordholder from voluntarily disclosing information or providing records to law enforcement upon request.

(2) This section shall not preclude a real estate recordholder, in its discretion, from initiating contact with, and thereafter communicating with and disclosing records to, appropriate state or local agencies concerning a suspected violation of any law.

(f) No real estate recordholder, or any officer, employee, or agent of the real estate recordholder, shall be liable to any person for either of the following:

(1) Disclosing information in response to an order pursuant to this section.

(2) Complying with an order under this section not to disclose to the customer the order, or the dissemination of information pursuant to the order.

(g) Any records required to be produced pursuant to this section shall be accompanied by an affidavit of a custodian of records of the real estate recordholder or other qualified witness which states, or includes in substance, all of the following:

(1) The affiant is the duly authorized custodian of the records or other qualified witness and has authority to certify the records.

(2) The identity of the records.

(3) A description of the mode of preparation of the records.

(4) The records were prepared by the personnel of the business in the regular course of business at or near the time of an act, condition, or event.

(5) Any copies of records described in the order are true copies.

(h) A person who violates this section is guilty of a public offense punishable by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170.

(i) For the purposes of this section, the following terms shall have the following meanings:

(1) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

(2) "Mortgage lending process" means the process through which a person seeks or obtains a mortgage loan, including, but not limited to, solicitation, application, origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan.

(3) "Mortgage loan" means a loan or agreement to extend credit to a person that is secured by a deed of trust or other document representing a security interest or lien upon any interest in real property, including the renewal or refinancing of the loan.

(4) "Real estate recordholder" means any person, licensed or unlicensed, that meets any of the following conditions:

(A) Is a title insurer that engages in the "business of title insurance" as defined by Section 12340.3 of the Insurance Code, an underwritten title company, or an escrow company.

(B) Functions as a broker or salesperson by engaging in any of the type of acts set forth in Sections 10131, 10131.1, 10131.2, 10131.3, 10131.4, and 10131.6 of the Business and Professions Code.

(C) Engages in the making or servicing of loans secured by real property.

(j) Fraud involving a mortgage loan may only be prosecuted under this section when the value of the alleged fraud meets the threshold for grand theft as set out in subdivision (a) of Section 487.

**533.** Every person who, after once selling, bartering, or disposing of any tract of land or town lot, or after executing any bond or agreement for the sale of any land or town lot, again willfully and with intent to defraud previous or subsequent purchasers, sells, barter, or disposes of the same tract of land or town lot, or any part thereof, or willfully and with intent to defraud previous or subsequent purchasers, executes any bond or agreement to sell, barter, or dispose of the same land or lot, or any part thereof, to any other person for a valuable consideration, is punishable by imprisonment pursuant to subdivision (h) of Section 1170.

**534.** Every person who is married or in a registered domestic partnership, who falsely and fraudulently represents himself or herself as competent to sell or mortgage any real estate, to the validity of which sale or mortgage the assent or concurrence of his or her spouse is necessary, and under such representations willfully conveys or mortgages the same, is guilty of a felony.

**535.** Every person who obtains any money or property from another, or obtains the signature of another to any written instrument, the false making of which would be forgery, by means of any false or fraudulent sale of property or pretended property, by auction, or by any of the practices known as mock auctions, is punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment, and, in addition, is disqualified for a period of three years from acting as an auctioneer in this state.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**536.** Every commission merchant, broker, agent, factor, or consignee, who shall willfully and corruptly make, or cause to be made, to the principal or consignor of such commission merchant, agent, broker, factor, or consignee, a false statement as to the price obtained for any property consigned or entrusted for sale, or as to the quality or quantity of any property so consigned or entrusted, or as to any expenditures made in connection therewith, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding one thousand dollars (\$1,000) and not less than two hundred dollars (\$200), or by imprisonment in the county jail not exceeding six months and not less than 10 days, or by both such fine and imprisonment.

**536a.** It is hereby made the duty of every commission merchant, broker, factor, or consignee, to whom any property is consigned or entrusted for sale, to make, when accounting therefor or subsequently, upon the written demand of his principal or consignor, a true written statement setting forth the name and address of the person or persons to whom a sale of the said property, or any portion thereof, was made, the quantity so sold to each purchaser, and the respective prices obtained therefor; provided, however, that unless separate written demand shall be made as to each consignment or shipment regarding which said statement is desired, prior to sale, it shall be sufficient to set forth in said statement only so many of said matters above enumerated as said commission merchant, broker, factor, or consignee may be able to obtain from the books of account kept by him; and that said statement shall not be required in case of cash sales where the amount of the transaction is less than fifty dollars. Any person violating the provisions of this section is guilty of a misdemeanor.

**537.** (a) Any person who obtains any food, fuel, services, or accommodations at a hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, ski area, or public or private campground, without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, or public or private campground by the use of any false pretense, or who, after obtaining credit, food, fuel, services, or accommodations, at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, or public or private campground, absconds, or surreptitiously, or by force, menace, or threats, removes any part of his or her baggage therefrom with the intent not to pay for his or her food or accommodations is guilty of a public offense punishable as follows:

(1) If the value of the credit, food, fuel, services, or accommodations is nine hundred fifty dollars (\$950) or less, by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail for a term not exceeding six months, or both.

(2) If the value of the credit, food, fuel, services, or accommodations is greater than nine hundred fifty dollars (\$950), by imprisonment in a county jail for a term of not more than one year, or in the state prison.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

(b) Any person who uses or attempts to use ski area facilities for which payment is required without paying as required, or who resells a ski lift ticket to another when the resale is not authorized by the proprietor, is guilty of an infraction.

(c) Evidence that a person left the premises of such an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, marina, marine facility, autocamp, ski area, or public or private campground, without paying or offering to pay for such food, fuel, services, use of facilities, or accommodation, or that the person, without authorization from the proprietor, resold his or her ski lift ticket to another person after making use of such facilities, shall be prima facie evidence of the following:

(1) That the person obtained such food, fuel, services, use of facilities or accommodations with intent to defraud the proprietor or manager.

(2) That, if, after obtaining the credit, food, fuel, services, or accommodations, the person absconded, or surreptitiously, or by force, menace, or threats, removed part of his or her baggage therefrom, the person did so with the intent not to pay for the credit, food, fuel, services, or accommodations.

**537b.** Any person who obtains any livery hire or other accommodation at any livery or feed stable, kept for profit, in this state, without paying therefor, with intent to defraud the proprietor or manager thereof; or who obtains credit at any such livery or feed stable by the use of any false pretense; or who after obtaining a horse, vehicle, or other property at such livery or feed stable, willfully or maliciously abuses the same by beating, goading, overdriving or other willful or malicious conduct, or who after obtaining such horse, vehicle, or other property, shall, with intent to defraud the owner, manager or proprietor of such livery or feed stable, keep the same for a longer period, or take the same to a greater distance than contracted for; or allow a feed bill or other charges to accumulate against such property, without paying therefor; or abandon or leave the same, is guilty of a misdemeanor.

**537c.** Every owner, manager, proprietor, or other person, having the management, charge or control of any livery stable, feed or boarding stable, and every person pasturing stock, who shall receive and take into his possession, charge, care or control, any horse, mare, or other animal, or any buggy, or other vehicle, belonging to any other person, to be by him kept, fed, or cared for, and who, while said horse, mare or other animal or buggy or other vehicle, is thus in his possession, charge, care or under his control, as aforesaid, shall drive, ride or use, or knowingly permit or allow any person other than the owner or other person entitled so to do, to drive, ride, or otherwise use the same, without the consent or permission of the owner thereof, or other person charged with the care, control or possession of such property, shall be guilty of a misdemeanor.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**537e.** (a) Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his or her possession any personal property from which the manufacturer's serial number, identification number, electronic serial number, or any other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed, is guilty of a public offense, punishable as follows:

(1) If the value of the property does not exceed nine hundred fifty dollars (\$950), by imprisonment in a county jail not exceeding six months.

(2) If the value of the property exceeds nine hundred fifty dollars (\$950), by imprisonment in a county jail not exceeding one year.

(3) If the property is an integrated computer chip or panel of a value of nine hundred fifty dollars (\$950) or more, by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years or by imprisonment in a county jail not exceeding one year.

(b) For purposes of this subdivision, "personal property" includes, but is not limited to, the following:

(1) Any television, radio, recorder, phonograph, telephone, piano, or any other musical instrument or sound equipment.

(2) Any washing machine, sewing machine, vacuum cleaner, or other household appliance or furnishings.

(3) Any typewriter, adding machine, dictaphone, or any other office equipment or furnishings.

(4) Any computer, printed circuit, integrated chip or panel, or other part of a computer.

(5) Any tool or similar device, including any technical or scientific equipment.

(6) Any bicycle, exercise equipment, or any other entertainment or recreational equipment.

(7) Any electrical or mechanical equipment, contrivance, material, or piece of apparatus or equipment.

(8) Any clock, watch, watch case, or watch movement.

(9) Any vehicle or vessel, or any component part thereof.

(c) When property described in subdivision (a) comes into the custody of a peace officer it shall become subject to the provision of Chapter 12 (commencing with Section 1407) of Title 10 of Part 2, relating to the disposal of stolen or embezzled property. Property subject to this section shall be considered stolen or embezzled property for the purposes of that chapter, and prior to being disposed of, shall have an identification mark imbedded or engraved in, or permanently affixed to it.

(d) This section does not apply to those cases or instances where any of the changes or alterations enumerated in subdivision (a) have been customarily made or done as an established practice in the ordinary and regular conduct of business, by the original manufacturer, or by his or her duly appointed direct representative, or under specific authorization from the original manufacturer.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**537f.** No storage battery composed in whole or in part of a used container, or used plate or plates and intended for use in the starting, lighting or ignition of automobiles, shall be sold or offered for sale in this State unless: the word "Rebuilt" together with the rebuilder's name and address is labeled on one side of the battery in letters not less than one-half inch in height with a one-eighth inch stroke.

Any person selling or offering for sale such a battery in violation of this section shall be guilty of a misdemeanor, punishable by a fine not exceeding two hundred fifty dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

**537g. (a)** Unless otherwise provided by law, any person who knowingly removes, defaces, covers, alters or destroys a National Crime Information Center owner identification number from the personal property of another without permission is guilty of a misdemeanor punishable by a fine not to exceed four hundred dollars (\$400), imprisonment in the county jail not to exceed one year, or both.

(b) This section shall not apply to any action taken by an authorized person to dispose of property pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code or pursuant to Chapter 12 (commencing with Section 1407) of Title 10 of Part 2 of this code.

**538.** Every person, who, after mortgaging any of the property permitted to be mortgaged by the provisions of Sections 9102 and 9109 of the Commercial Code, excepting locomotives, engines, rolling stock of a railroad, steamboat machinery in actual use, and vessels, during the existence of the mortgage, with intent to defraud the mortgagee, his or her representative or assigns, takes, drives, carries away, or otherwise removes or permits the taking, driving, or carrying away, or other removal of the mortgaged property, or any part thereof, from the county where it was situated when mortgaged, without the written consent of the mortgagee, or who sells, transfers, slaughters, destroys, or in any manner further encumbers the mortgaged property, or any part thereof, or causes it to be sold, transferred, slaughtered, destroyed, or further encumbered, is guilty of theft, and is punishable accordingly. In the case of a sale, transfer, or further encumbrance at or before the time of making the sale, transfer, or encumbrance, the mortgagor informs the person to whom the sale, transfer, or encumbrance is made, of the existence of the prior mortgage, and also informs the prior mortgagee of the intended sale, transfer, or encumbrance, in writing, by giving the name and place of residence of the party to whom the sale, transfer, or encumbrance is to be made.

**538a.** Every person who signs any letter addressed to a newspaper with the name of a person other than himself and sends such letter to the newspaper, or causes it to be sent to such newspaper, with intent to lead the newspaper to believe that such letter was written by the person whose name is signed thereto, is guilty of a misdemeanor.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**538b.** Any person who willfully wears the badge, lapel button, rosette, or any part of the garb, robe, habit, or any other recognized and established insignia or apparel of any secret society, or fraternal or religious order or organization, or of any sect, church or religious denomination, or uses the same to obtain aid or assistance within this State, with intent to deceive, unless entitled to wear and use the same under the constitution, by-laws or rules and regulations, or other laws or enactments of such society, order, organization, sect, church or religious denomination is guilty of a misdemeanor.

**538c.** (a) Except as provided in subdivision (c), any person who attaches or inserts an unauthorized advertisement in a newspaper, whether alone or in concert with another, and who redistributes it to the public or who has the intent to redistribute it to the public, is guilty of the crime of theft of advertising services which shall be punishable as a misdemeanor.

(b) As used in this section:

(1) "Unauthorized advertisement" means any form of representation or communication, including any handbill, newsletter, pamphlet, or notice that contains any letters, words, or pictorial representation that is attached to or inserted in a newspaper without a contractual agreement between the publisher and an advertiser.

(2) "Newspaper" includes any newspaper, magazine, periodical, or other tangible publication, whether offered for retail sale or distributed without charge.

(c) This section does not apply if the publisher or authorized distributor of the newspaper consents to the attachment or insertion of the advertisement.

(d) This section does not apply to a newspaper distributor who is directed to insert an unauthorized advertisement by a person or company supplying the newspapers, and who is not aware that the advertisement is unauthorized.

(e) A conviction under this section shall not constitute a conviction for petty theft.

**538d.** (a) Any person other than one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing, of a peace officer, with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor.

(b) (1) Any person, other than the one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the badge of a peace officer with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge of a peace officer as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, for the purpose of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(c) (1) Except as provided in subdivision (d), any person who willfully wears, exhibits, or uses, or who willfully makes, sells, loans, gives, or transfers to another, any badge, insignia, emblem, device, or any label, certificate, card, or writing, which falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge, insignia, emblem, device, label, certificate, card, or writing of a peace officer as would deceive an ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine, except that any person who makes or sells any badge under the circumstances described in this subdivision is subject to a fine not to exceed fifteen thousand dollars (\$15,000).

(2) A local law enforcement agency in the jurisdiction that files charges against a person for a violation of paragraph (1) shall seize the badge, insignia, emblem, device, label, certificate, card, or writing described in paragraph (1).

(d) (1) The head of an agency that employs peace officers, as defined in Sections 830.1 and 830.2, is authorized to issue identification in the form of a badge, insignia, emblem, device, label, certificate, card, or writing that clearly states that the person has honorably retired following service as a peace officer from that agency. The identification authorized pursuant to this subdivision is separate and distinct from the identification authorized by Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.

(2) If the head of an agency issues a badge to an honorably retired peace officer that is not affixed to a plaque or other memento commemorating the retiree's service for the agency, the words "Honorably Retired" shall be clearly visible above, underneath, or on the badge itself.

(3) The head of an agency that employs peace officers as defined in Sections 830.1 and 830.2 is authorized to revoke identification granted pursuant to this subdivision in the event of misuse or abuse.

(4) For the purposes of this subdivision, the term "honorably retired" does not include an officer who has agreed to a service retirement in lieu of termination.



**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

(e) (1) Vendors of law enforcement uniforms shall verify that a person purchasing a uniform identifying a law enforcement agency is an employee of the agency identified on the uniform. Presentation and examination of a valid identification card with a picture of the person purchasing the uniform and identification, on the letterhead of the law enforcement agency, of the person buying the uniform as an employee of the agency identified on the uniform shall be sufficient verification.

(2) Any uniform vendor who sells a uniform identifying a law enforcement agency, without verifying that the purchaser is an employee of the agency, is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000).

(3) This subdivision shall not apply if the uniform is to be used solely as a prop for a motion picture, television, video production, or a theatrical event, and prior written permission has been obtained from the identified law enforcement agency.

**538e.** (a) Any person, other than an officer or member of a fire department, who willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing of an officer or member of a fire department or a deputy state fire marshal, with the intent of fraudulently impersonating an officer or member of a fire department or the Office of the State Fire Marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department or the Office of the State Fire Marshal, is guilty of a misdemeanor.

(b) (1) Any person, other than the one who by law is given the authority of an officer or member of a fire department, or a deputy state fire marshal, who willfully wears, exhibits, or uses the badge of a fire department or the Office of the State Fire Marshal with the intent of fraudulently impersonating an officer, or member of a fire department, or a deputy state fire marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department, or a deputy state fire marshal, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of an officer or member of a fire department, or a deputy state fire marshal, or which so resembles the authorized badge of an officer or member of a fire department, or a deputy state fire marshal as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of an officer or member of a fire department or a deputy state fire marshal, for the purpose of fraudulently impersonating an officer or member of a fire department, or a deputy state fire marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department, or a deputy state fire marshal, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

(c) Any person who willfully wears, exhibits, or uses, or who willfully makes, sells, loans, gives, or transfers to another, any badge, insignia, emblem, device, or any label, certificate, card, or writing, which falsely purports to be authorized for the use of one who by law is given the authority of an officer, or member of a fire department or a deputy state fire marshal, or which so resembles the authorized badge, insignia, emblem, device, label, certificate, card, or writing of an officer or member of a fire department or a deputy state fire marshal as would deceive an ordinary reasonable person into believing that it is authorized for use by an officer or member of a fire department or a deputy state fire marshal, is guilty of a misdemeanor, except that any person who makes or sells any badge under the circumstances described in this subdivision is guilty of a misdemeanor punishable by a fine not to exceed fifteen thousand dollars (\$15,000).

(d) Any person who, for the purpose of selling, leasing or otherwise disposing of merchandise, supplies or equipment used in fire prevention or suppression, falsely represents, in any manner whatsoever, to any other person that he or she is a fire marshal, fire inspector or member of a fire department, or that he or she has the approval, endorsement or authorization of any fire marshal, fire inspector or fire department, or member thereof, is guilty of a misdemeanor.

(e) (1) Vendors of uniforms shall verify that a person purchasing a uniform identifying a firefighting agency or department is an employee or authorized member of the agency or department identified on the uniform. Examination of a valid photo identification card issued by a firefighting agency or department that designates the person as an employee or authorized member of the agency or department identified on the uniform shall be sufficient verification.

(2) If a person purchasing a uniform does not have a valid photo identification card issued by a firefighting agency or department, the person shall present an official letter of authorization from the firefighting agency or department designating that person as an employee or authorized member of the agency or department. The person shall also present a government issued photo identification card bearing the same name as listed in the letter of authorization issued by the agency or department.

(3) Any uniform vendor who sells a uniform identifying a firefighting agency or department without verifying that the purchaser is an employee or authorized member of the agency or department is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000).

(4) This subdivision shall not apply if the uniform is to be used solely as a prop for a motion picture, television, video production, or a theatrical event, and prior written permission has been obtained from the identified firefighting agency or department.

(f) This section shall not apply to either of the following:

(1) Use of a badge solely as a prop for a motion picture, television, or video production, or an entertainment or theatrical event.

(2) A badge supplied by a recognized employee organization as defined in Section 3501 of the Government Code representing firefighters or a state or international organization to which it is affiliated.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**538f.** Any person, other than an employee of a public utility or district as defined in Sections 216 and 11503 of the Public Utilities Code, respectively, who willfully presents himself or herself to a utility or district customer with the intent of fraudulently personating an employee of a public utility or district, or of fraudulently inducing the belief that he or she is an employee of a public utility or district, is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment. Nothing in this section shall be construed to prohibit conduct that arguably constitutes protected activity under state labor law or the National Labor Relations Act (Title 29, United States Code, Section 151 and following)

**538g.** (a) Any person, other than a state, county, city, special district, or city and county officer or employee, who willfully wears, exhibits, or uses the authorized badge, photographic identification card, or insignia of a state, county, city, special district, or city and county officer or employee, with the intent of fraudulently personating a state, county, city, special district, or city and county officer or employee, or of fraudulently inducing the belief that he or she is a state, county, city, special district, or city and county officer or employee, is guilty of a misdemeanor.

(b) Any person who willfully wears, exhibits, or uses, or willfully makes, sells, loans, gives, or transfers to another, any badge, photographic identification card, or insignia, which falsely purports to be for the use of a state, county, city, special district, or city and county officer or employee, or which so resembles the authorized badge, photographic identification card, or insignia of a state, county, city, special district, or city and county officer or employee as would deceive an ordinary reasonable person into believing that it is authorized for use by a state, county, city, special district, or city and county officer or employee, is guilty of a misdemeanor, except that any person who makes or sells any badge under the circumstances described in this subdivision is subject to a fine not to exceed fifteen thousand dollars (\$15,000).

(c) This section shall not apply to either of the following:

(1) Use of a badge solely as a prop for a motion picture, television, or video production, or an entertainment or theatrical event.

(2) A badge supplied by a recognized employee organization as defined in Section 3501 of the Government Code or a state or international organization to which it is affiliated.

**538.5.** Every person who transmits or causes to be transmitted by means of wire, radio or television communication any words, sounds, writings, signs, signals, or pictures for the purpose of furthering or executing a scheme or artifice to obtain, from a public utility, confidential, privileged, or proprietary information, trade secrets, trade lists, customer records, billing records, customer credit data, or accounting data by means of false or fraudulent pretenses, representations, personations, or promises is guilty of an offense punishable by imprisonment pursuant to subdivision (h) of Section 1170, or by imprisonment in the county jail not exceeding one year.

**PENAL CODE**

**TITLE 13 OF CRIMES AGAINST PROPERTY**

**CHAPTER 8 FALSE PERSONATION AND CHEATS**

**539.** Every person who, with the intent to defraud, certifies that a person ordered by the court to participate in community service as a condition of probation has completed the number of hours of community service prescribed in the court order and the participant has not completed the prescribed number of hours, is guilty of a misdemeanor.

**TITLE 15 MISCELLANEOUS CRIMES**

**CHAPTER 2 OF OTHER AND MISCELLANEOUS OFFENSES**

**653.** Every person who tattoos or offers to tattoo a person under the age of 18 years is guilty of a misdemeanor.

As used in this section, to “tattoo” means to insert pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin.

This section is not intended to apply to any act of a licensed practitioner of the healing arts performed in the course of his practice.

**653o.** (a) It is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of a polar bear, leopard, ocelot, tiger, cheetah, jaguar, sable antelope, wolf (*Canis lupus*), zebra, whale, cobra, python, sea turtle, colobus monkey, kangaroo, vicuna, sea otter, free-roaming feral horse, dolphin or porpoise (*Delphinidae*), Spanish lynx, or elephant.

(b) (1) Commencing January 1, 2020, it shall be unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of a crocodile or alligator.

(2) This subdivision shall not be construed to authorize the importation or sale of any alligator or crocodilian species, or any products thereof, that are listed as endangered under the federal Endangered Species Act, or to allow the importation or sale of any alligator or crocodilian species, or any products thereof, in violation of any federal law or international treaty to which the United States is a party.

(c) A person who violates this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars (\$1,000) and not to exceed five thousand dollars (\$5,000) or imprisonment in the county jail not to exceed six months, or both that fine and imprisonment, for each violation.

**PENAL CODE**

**TITLE 15 MISCELLANEOUS CRIMES**

**CHAPTER 2 OF OTHER AND MISCELLANEOUS OFFENSES**

(d) The prohibitions against importation for commercial purposes, possession with intent to sell, and sale of the species listed in this section are severable. A finding of the invalidity of any one or more prohibitions shall not affect the validity of any remaining prohibitions.

(e) This section shall become operative on January 1, 2016.

*This information is not intended to be and should not be depended on as legal advice. This information is not designed to be inclusive. Laws are obtained from the Official Legislative Information website: <https://leginfo.legislature.ca.gov>*