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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.)*

CHAPTER 11. Repossessors [7500 - 7511.5] (*Chapter 11 added by Stats. 1981, Ch. 1138, Sec. 11.)*

ARTICLE 3. Application of Chapter [7502 - 7502.6] (*Article 3 added by Stats. 1981, Ch. 1138, Sec. 11.)*

7502. No person shall engage within this state in the activities of a repossession agency as defined in Section 7500.2 unless the person holds a valid repossession agency license or is exempt from licensure pursuant to Section 7500.2 or 7500.3.

(*Added by Stats. 1981, Ch. 1138, Sec. 11.*)

7502.1. (a) Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages a nonexempt unlicensed person to repossess collateral on that person's behalf is guilty of a misdemeanor, and is punishable by a fine of five thousand dollars (\$5,000), or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. In addition, any tow vehicle subject to registration under the Vehicle Code that is used to violate any provision of this chapter is subject to removal and impound pursuant to Section 22850 of the Vehicle Code.

(b) Within existing resources, the Commissioner of Financial Protection and Innovation and the Director of Motor Vehicles may each designate employees to investigate and report on violations of this chapter by any of the licensees of their respective departments. Those employees may actively cooperate with the bureau in the investigation of those activities.

(c) A proceeding to impose the penalties specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, by the city prosecutor in any city or city and county having a full-time city prosecutor, for the jurisdiction in which the violation occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(*Amended by Stats. 2022, Ch. 452, Sec. 2. (SB 1498) Effective January 1, 2023.*)

7502.2. (a) A financial institution or a buy-here-pay-here dealer, as defined by Section 241 of the Vehicle Code, that knowingly engages a nonexempt unlicensed person to repossess collateral on its behalf is guilty of a misdemeanor, and is punishable by a fine of five thousand dollars (\$5,000).

(b) Within existing resources, the Commissioner of Financial Protection and Innovation may designate employees to investigate and report on violations of this section by any of the licensees of their department. Those employees are authorized to actively cooperate with the bureau in the investigation of those activities.

(c) A proceeding to impose the fine specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, by the city prosecutor in any city or city and county having a full-time city prosecutor, for the jurisdiction in which the violation occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(*Amended by Stats. 2022, Ch. 452, Sec. 3. (SB 1498) Effective January 1, 2023.*)

7502.3. Any person who knowingly falsifies the fingerprints or photographs required by any provision of this chapter is guilty of a felony.

(Added by Stats. 1981, Ch. 1138, Sec. 11.)

7502.4. In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under this chapter has engaged or is about to engage in any act which constitutes a violation of this chapter may, upon a petition filed by the director and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with the provisions of this section.

(a) If an affidavit in support of the petition show that the licensee has engaged or is about to engage in acts or omissions constituting a violation of this chapter and if the court is satisfied that permitting the licensee to continue to engage in the business and profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the licensee from engaging in the profession for which he or she is licensed.

(b) The order may not be issued without notice to the licensee unless it appears from facts shown by the affidavit that serious injury would result to the public before the matter can be heard on notice.

(c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required.

(d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed by the director pursuant to Section 11503 of the Government Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. However, if the licensee requests a hearing on the accusation, the director shall provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date of the conclusion of the hearing, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at such time the director's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(Added by Stats. 1981, Ch. 1138, Sec. 11.)

7502.5. The provisions of this chapter do not prevent the local authorities in any city, county, or city and county, by ordinance and within the exercise of the police power of the city, county, or city and county from requiring repossession agency licensees or registrants to register their names and a file copy of their state identification cards with the city, county, or city and county. No fee may be charged nor may any application be required by the city, county, or city and county for the registration.

(Amended by Stats. 1995, Ch. 505, Sec. 7. Effective January 1, 1996.)

7502.6. (a) The superior court in and for the county wherein any person carries on, or attempts to carry on, business as a repossession agency without first having obtained a license pursuant to this chapter, or carries on that business after the revocation or expiration of any license or during the period of suspension of any license, may, on application of the director, or any person licensed under this act or association representing those licensees or any member of the general public, issue an injunction or other appropriate order restraining that conduct and may impose civil fines not exceeding ten thousand dollars (\$10,000).

(b) A proceeding to impose the fine specified in subdivision (a) and enjoin the unlicensed operation of a repossession agency business may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor, for the jurisdiction in which the unlicensed activity has occurred. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(c) The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that there shall be no requirement to allege facts necessary to show or tending to show lack of an adequate remedy at law or irreparable injury.

(Amended by Stats. 2019, Ch. 377, Sec. 3. (SB 609) Effective January 1, 2020.)