SECONDHAND DEALER & PAWNBROKER LAWS



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California Department of Justice

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SECONDHAND DEALER AND PAWNBROKER LAWS

TABLE OF CONTENTS

BUSINESS AND PROFESSIONS CODE
DIVISION 1.5
DENIAL, SUSPENSION AND REVOCATION OF LICENSES

		Page
CHAPTER 1 - GENERAL PROVISIONS		1
475.	Denial of Licenses; grounds	1
476.	Inapplicability of division to certain persons	1
477.	Board; license	1
478.	Application; material	1
CHAPTER 2 - DENIAL OF LICENSES		2
480.	Acts disqualifying applicant	2
481.	Criteria; crime or act substantially related to qualifications, etc.	2
482.	Evaluation of rehabilitation; criteria	2
484.	Attestation by other persons to good moral character; requirement for application for license	3
485.	Procedure by board upon denial of application for license	3
486.	Reapplication; informing applicant of requirements	3
487.	Hearing	3
488.	Hearing; decision	4
489.	Denial of license for lack of good character	4
CHAPTER 3 - SUSPENSION AND REVOCATION OF LICENSES		5
490.	Conviction of crime; relationship of crime to licensed activity; definition; time for board action	5
490.5.	Noncompliance with support order or judgment	5
491.	Information to ex-licensee	5
492.	Healing arts; disciplinary action or license denial notwithstanding drug diversion program; exception	5
493.	Disciplinary action or license denial; convictions; inquiry	6
494.	Interim order, notice; hearing; decision; judicial review noncompliance	6
CHAPTER 4 - PUBLIC REPROVALS		9
495.	Authority; procedure	9
496.	Violation of Section 123; denial, suspension or revocation of license	9
CHAPTER 5 - EXAMINATION SECURITY		9
498.	License secured by fraud, deceit, or knowing misrepresentation	9
499.	False statement in support of another person's application	9

TABLE OF CONTENTS
(Continued)

DIVISION 8
SPECIAL BUSINESS REGULATION

Page

CHAPTER 9 - SECONDHAND GOODS 10

ARTICLE 1 – WATCHES 10

21500. Watch sellers 10
21501. Secondhand watches 10
21502. Exclusions 10
21503. Records; contents 10
21504. Records; preservation 10
21505. Item identification as secondhand 10
21506. Invoice; contents 11
21507. Invoice; preservation 11
21508. Advertising 11
21509. Violations; offense 11

ARTICLE 2 – BUILDERS' TOOLS 12

21550. Builders' Tools 12
21551. Records; contents 12
21552. Shipping or transmitting outside the county 12
21553. Reporting requirements 12
21554. Report contents 12
21555. Reporting if no jurisdictional police department 12
21556. Violations; offense 12

ARTICLE 3 – JUNK 13

21600. Junk 13
21601. Junk dealer 13
21602. Junk yard 13
21603. Exclusions; certain merchants 13
21604. Exclusions 13
21605. Junk dealer and recycler records; recycler defined 14
21606. Records; contents 14
21606.5. Inspection of records 14
21607. Records; preservation 15
21608. Violations; offense 15
21608.3. Unauthorized disclosure of personal identification information 15
21608.5. Nonferrous materials 15
21608.6. Newspapers and California Redemption Value (CRV) containers 17
21609. Property suspected of being stolen; peace officer placement of hold on property; rights, duties and liabilities of junk dealer or recycler; costs 18
21609.5. Refillable stainless steel or aluminum alloy beer kegs 19

TABLE OF CONTENTS
(Continued)

		Page
ARTICLE 4 - TANGIBLE PERSONAL PROPERTY		20
21625.	Legislative intent	20
21626.	Secondhand dealer; coin dealer	20
21626.5.	Secondhand dealer; exclusion	20
21627.	Tangible personal property	21
21628.	Report required; time	21
21628.1.	Transaction reports; submission to law enforcement; exceptions	23
21628.2	Electronic reporting: firearms	24
21628.5.	Business machine dealer; report of used machines and repairs	24
21629.	Exceptions from article	24
21629.5.	Application of article to property acquired by secondhand dealer with understanding or expectation of reacquisition	25
21630.	Submission of report	25
21631.	Report of all tangible personal property found in shop; retention of possession of property by dealer; treatment of unclaimed property after 60 days	26
21633.	Approved report forms; copies; submission and retention	26
21634.	Report by chief of police or sheriff	26
21636.	Retention of possession of property by dealer for 30-day period	26
21636.5.	Seller repurchase; promise by dealer	27
21636.6.	Unlawful act; advertising without license number	27
21637.	Compliance with ordinances or other state law	27
21638.	Effect of article upon enactment, amendment or enforcement of local ordinances	27
21638.5.	Personal property pledged to pawnbroker; redemption by pledger	28
21640.	Secondhand dealer; requirement for license	28
21641.	Licenses; application; fee; grounds for denial; grant	28
21642.	License; renewal; forfeiture; grounds	29
21642.5	Fees; electronic reporting system	29
21643.	Transactions with a minor	30
21645.	Violations; misdemeanor; punishment	30
21646.	Violations or threatened violations; injunction	31
21647.	Peace officer hold on property	31
ARTICLE 5 - RESALE OF GOODS		33
21650.	Adequate evidence of authority to sell	33
21651.	Definitions	33
21652.	Presentation to dealer of adequate evidence of authority to sell	33
21653.	Violations	33

TABLE OF CONTENTS
(Continued)

		Page
ARTICLE 6 - SWAP MEETS		34
21660.	Legislative intent; application of article; uniform reports; ordinances and charters; land use and zoning regulations; secondhand dealers; operators and vendors	34
21661.	Definitions	34
21662.	Exclusions	35
21663.	Reports of property offered or displayed; contents; form	35
21663.1.	Swap meet; reporting exemptions	36
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	36
21665.	Copies of reports; retention by operators; time; inspection; vendor's copy; availability for inspection during swap meet	37
21666.	Receipts for sales; prohibited personal property or merchandise; notice	38
21667.	Violations; misdemeanor; punishment	38
21668.	Waiver of requirements for swap meet operators and vendors	38
21669.	Swap meets conducted on government premises; procedures; operation by government entities for profit	38
21669.1.	Swap meets on government property; average daily attendance of 10,000 or more; requirements 35	39
ARTICLE 7 - SPORTS TRADING CARDS		40
21670.	Definitions	40
21671.	Alterations or refurbishments; certificates, violations; penalties	40
21672.	Unlicensed or counterfeit sports trading cards; manufacture, production, distribution, or sale; violations; penalties	41

TABLE OF CONTENTS

(Continued)

FINANCIAL CODE DIVISION 8
PAWNBROKERS

		Page
CHAPTER 1 – Article 1 Definitions / Article 2 Exceptions to this Division		42
21000.	Pawnbroker	42
21000.7.	Receiving goods as security for a loan	42
21001.	Compensation	42
21002.	Pledge property; vested property	42
21003	Term: month	42
21050.	Exempt persons	43
21051.	Loans of $2,500 or more	43
CHAPTER 2 - PAWNBROKER REGULATIONS		44
21200.	Maximum compensation	44
21200.1.	Loan setup fee	44
21200.5.	Schedule of charges; posting	44
21200.6.	Handling and storage, schedule of charges	46
21200.7.	Posting of maximum compensation	46
21200.8.	Processing charge for firearms	46
21200.9.	Repurchase of property; no promise by pawnbroker to seller	46
21201.	Written contract to be furnished borrower; contents; notice; retention and redemption of pledged articles; foreclosure; sale of pledge property	46
21201.1.	Loss of pawn ticket; verification of claimant; fee	47
21201.2.	Notice of expiration of redemption; fee	47
21201.3.	Written contract; item storage provision; insurance of items; violation; penalty	47
21201.4.	Determination of charges	48
21201.5.	New loan on pledged property	48
21202.	Pawnbook; entry by pawnbroker; delivery of copy to pledger	48
21203.	Loan redemption; return of property	48
21204.	Loan redemption; fees and charges	48
21206.	Inspection of records	49
21206.7.	Receipt upon seizure of property alleged to be stolen	49
21206.8.	Disposal of property stolen or embezzled; notice; time; liability of pawnbroker	49
21207.	Pledges of minors	49
21208.	Reports	49
21209.	Violations; misdemeanor	49

TABLE OF CONTENTS
(Continued)

		Page
CHAPTER 3 – LICENSURE		50
21300.	Application for license; requirements; fees	50
21300.1.	Unlicensed persons acting as pawnbroker	50
21301.	Renewal; grounds for forfeiture	50
21301.1.	Unlawful act; advertising without license number	51
21302.	Injunctions	51
21303.	Surety bond	52
21304.	Financial statement; liquid assets; application of section	52
21305.	Transfer or assignment	52
21306.	Exemption; second dealer license	52
21307.	Violations; penalty	52

TABLE OF CONTENTS
(Continued)

PENAL CODE
TITLE 10
MISCELLANEOUS PROCEEDINGS

Page

CHAPTER 12 - DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED 53

1407. Property in custody of peace officer; holding subject to provisions of chapter 53
1408. Property in custody of peace officer; order for delivery to owner; payment of expenses 53
1409. Property in custody of magistrate; delivery to owner; proof of title; payment of expenses 53
1410. Property not delivered to owner; proof of title; order for restoration by trial court 53
1411. Unclaimed property delivered to county officer; notice to owner or holder of security interest; failure to claim; disposition 53
1412. Money or property taken from defendant on arrest; duplicate receipts; filing or delivery of receipts 54
1413. Person in charge of property section; record of property allegedly stolen or embezzled; delivery to owner; review by magistrate; liability 54

PENAL CODE
TITLE 13
OF CRIMES AGAINST PROPERTY

CHAPTER 5 – LARCENY (THEFT) 56

484.1 Pawnbroker or secondhand dealer; false verification of ownership Of property to receive money or valuable consideration; restitution 56

496. Receiving stolen property; knowledge; concealment; punishment 56

496a. Junk and secondhand dealers; purchasing metals used in transportation or public utility service determination of seller's right; punishment; record of transaction 57

CHAPTER 8 – FALSE PERSONATION AND CHEATS 58

537e. Articles from which serial numbers or identification marks have been removed; purchase, sale, possession; disposition by peace officers; 58

BUSINESS AND PROFESSIONS CODE

DIVISION 1.5 – DENIAL, SUSPENSION AND REVOCATION OF LICENSES

CHAPTER 1 – GENERAL PROVISIONS

475. Denial of licenses; grounds

(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. Inapplicability of division to certain persons

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.

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. Board; license

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. Application; material

(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. Acts disqualifying applicant

(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 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, no person shall 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) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license.

481. Criteria; crime or act substantially related to qualifications, etc.

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. Evaluation of rehabilitation; criteria

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. Attestation by other persons to good moral character; requirement for application for license

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. Procedure by board upon denial of application for license

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. Reapplication; informing applicant of requirements

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.

487. Hearing

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. Hearing; decision

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. Denial of license for lack of good character

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.

490. Conviction of crime; relationship of crime to licensed activity; definition; time for board action

(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. 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 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 Senate Bill 797 of the 2007 -08 Regular Session do not constitute a change to, but rather are declaratory of, existing law.

490.5. Non compliance with support order or judgment

A board may suspend a license pursuant to Section 11350.6 of the Welfare and Institutions Code if a licensee is not in compliance with a child support order or judgment.

491. Information to ex-licensee

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. Healing arts; Disciplinary action or license denial notwithstanding drug diversion program; exception

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. Disciplinary action or license denial, convictions; inquiry

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, 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. Interim order, notice; hearing; decision; judicial review noncompliance

(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.

(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). 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. Authority; procedure

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 reproval, public reproval and suspension, or public reproval 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.

496. Violation of Section 123; denial, suspension or revocation of license

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. License secured by fraud, deceit, or knowing misrepresentation

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. False statement in support of another persons application

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.

BUSINESS AND PROFESSIONS CODE
DIVISION 8 – SPECIAL BUSINESS REGULATION
CHAPTER 9 – SECONDHAND GOODS

Article 1 – WATCHES

21500. Watch Sellers

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. Secondhand watch

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. Exclusions

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. Records; contents

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

(a) The name and address of the consumer.

(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. Records; preservation

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. Item identification as secondhand

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. Invoice; contents

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. Invoice; preservation

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. Advertising

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. Violations; offense

Violation of this article is a misdemeanor.

BUSINESS AND PROFESSIONS CODE
DIVISION 8 – SPECIAL BUSINESS REGULATION
CHAPTER 9 – SECONDHAND GOODS

Article 2 – BUILDERS' TOOLS

21550. Builders' tools

"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.

21551. Records; contents

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. Shipping or transmitting outside the county

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. Reporting requirements

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. Report contents

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. Reporting if no jurisdictional police department

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. Violations; offense

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

BUSINESS AND PROFESSIONS CODE
DIVISION 8 – SPECIAL BUSINESS REGULATION
CHAPTER 9 – SECONDHAND GOODS

Article 3 – JUNK

21600. Junk

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. Junk dealer

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. Junk yard

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. Exclusions; certain merchants

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. Exclusions

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.

(b) Those purchases of scrap metal by a junk dealer 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. Junk dealer and recycler records; recycler defined

(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. Records; contents

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

(3) 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.

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

(5) 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.

(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. Inspection of records

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 (A) of paragraph (3) 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. Records; preservation

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. Violations; offense

(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.

(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. Unauthorized disclosure of personal identification information

(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 Nonferrous materials

(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 check or cash may be collected by the seller from the junk dealer or recycler on 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 or a copy of a state or federal government issued identification card containing a photograph and an address of the seller.

(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 paragraph 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 hard copy 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.

(d) This section shall not apply to the redemption of nonferrous material having a value of not more than twenty dollars ($20) in a single transaction when the primary purpose of the transaction is 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.

(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.

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

21608.6. Newspapers and California Redemption Value (CRV) containers

(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.

(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.

21609. Property suspected of being stolen; peace officer placement of hold on property; rights, duties and liabilities of junk dealer or recycler; costs

(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.

(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.

21609.5. Refillable stainless steel or aluminum alloy beer kegs

(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.

BUSINESS AND PROFESSIONS CODE
DIVISION 8 – SPECIAL BUSINESS REGULATION
CHAPTER 9 – SECONDHAND GOODS

Article 4 – TANGIBLE PERSONAL PROPERTY

21625. Legislative intent

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. Secondhand dealer; coin dealer

(a) A "secondhand dealer," as used in this article, means and includes any person, co-partnership, 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. 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; exclusion

"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. Tangible personal property

(a) As used in this article, "tangible personal property" includes, but is not limited to, all secondhand tangible personal property which bears a serial number or personalized initials or inscription or which, 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 includes, but is not limited to, 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 which is purchased by a secondhand dealer or a pawnbroker or which, at the time of such purchase, bears evidence of having had a serial number or personalized initials or inscription.

(3) All personal property commonly sold by secondhand dealers which statistically is found through crime reports to the Attorney General to constitute a significant class of stolen goods. A list of such personal property shall be supplied by the Attorney General to all local law enforcement agencies. Such list shall be reviewed periodically by the Attorney General to insure 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 such 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 such 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.

21628. Report required; time

Every secondhand dealer or coin dealer described in Section 21626 shall report daily, or on the first working day after receipt or purchase of secondhand tangible personal property, on forms or through an electronic reporting system approved by the Department of Justice, 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, to the chief of police or to the sheriff, in accordance with the provisions of Sections 21630 and 21633 and subdivision (j). The report shall be legible, prepared in English, completed where applicable, and include, but not be limited to, the following information:

(a) The name and current address of the intended seller or pledger of the property.

(b) 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. 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:

(1) A passport of the United States.

(2) A driver's license issued by any state or Canada.

(3) An identification card issued by any state.

(4) An identification card issued by the United States.

(5) A passport from any other country in addition to another item of identification bearing an address.

(6) A Matricula Consular in addition to another item of identification bearing an address.

(c) A complete and reasonably accurate description of serialized property, including, but not limited to, the following: serial number and other identifying marks or symbols, owner-applied numbers, manufacturer's named brand, and model name or number. 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.

(d) A complete and reasonably accurate description of nonserialized property, including, but not limited to, the following: size, color, material, manufacturer's pattern name (when known), owner-applied numbers and personalized inscriptions, and other identifying marks or symbols. 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.

(e) 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.

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

(g) 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.

(h) (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**.

(i) 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.

(j) (1) The Department of Justice shall, in consultation with appropriate local law enforcement agencies, develop clear and comprehensive descriptive categories denoting tangible personal property, as detailed in this section, subject to the reporting requirements of this section. These categories shall be incorporated by secondhand dealers and coin dealers described in Section 21626 for purposes of the reporting requirements set forth herein. Except as otherwise provided in this section, any report required of a secondhand dealer shall be transmitted by electronic means. With the consultation by the Department of Justice with local law enforcement agencies and representatives from the secondhand dealer businesses, pursuant to Resolution Chapter 16 of the Statutes of 2010, and upon the availability of sufficient funds in the Secondhand Dealer and Pawnbroker Fund created pursuant to Section 21642.5, the department shall promptly develop a single, statewide, uniform electronic reporting system to be used to transmit these secondhand dealer reports.

(2) (A) Until the date that the Department of Justice implements the single, statewide, uniform electronic reporting system described in paragraph (1), each secondhand dealer may continue to report the information required by this section under the reporting categories described in paragraph (1) in paper format on forms approved of or provided by the Department of Justice.

(B) On and after the date that the Department of Justice implements the single, statewide, uniform electronic reporting system described in paragraph (1), each secondhand dealer shall electronically report using that system the information required by this section under the reporting categories described in paragraph (1), except that for the first 30 days following the implementation date, each secondhand dealer shall also report the information in paper format as described in subparagraph (A).

(3) A coin dealer shall report the information required by this section under the reporting categories 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.

(4) 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.

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

(k) 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**.

21628.1. Transaction reports; submission to law enforcement; exceptions

(a) Notwithstanding Section 21628, submission of transaction reports are not required to be submitted to the local law enforcement agency if the report of an acquisition of the same property from the same customer has been submitted within the preceding 12 months, except when submission of the reports is specifically requested in writing by the local licensing authority.

(b) This section shall become operative on July 1, 2010.

21628.2. Electronic reporting: firearms

(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. Business machine dealer; report of used machines and repairs

(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.

(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. Exceptions from article

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;

(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. Application of article to property acquired by secondhand dealer with understanding or expectation of reacquisition

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. Submission of report

If the transaction takes place within the territorial limits of an incorporated city, the report shall be submitted to the police chief executive of the city or his or her designee. If the transaction takes place outside the territorial limits of an incorporated city, the report shall be submitted to the

sheriff of the county or his or her designee.

21631. Report of all tangible personal property found in shop; retention of possession of property by dealer; treatment of unclaimed property after 60 days

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.

21633. Approved report forms; copies; submission and retention

The report forms approved by the Department of Justice shall consist of not less than an original and two copies. The Department of Justice shall not require the report form to consist of more than an original and two copies when the forms are obtained from a source other than the department. A local law enforcement agency may request secondhand dealers within its jurisdiction to use a report form consisting of more than an original and two copies. However, each secondhand dealer or group of dealers shall be required only to use a form consisting of an original and two copies when the dealer does not use a form obtained from the Department of Justice.

The Department of Justice shall allow the use of forms which are compatible with computerization. The original and the duplicate copy shall be submitted by the secondhand dealer in accordance with the provisions of Sections 21628 and 21630. One copy shall be retained by the secondhand dealer in his place of business for a period of three years and shall be made available for inspection by any law enforcement officer.

21634. Report by chief of police or sheriff

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. Retention of possession of property by dealer for 30-day period

(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. Seller repurchase; promise by dealer

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. Unlawful act; advertising without license number

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.

21637. Compliance with ordinances or other state law

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. Effect of article upon enactment, amendment or enforcement of local ordinances

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 Personal property pledged to pawnbroker; redemption by pledger

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. Secondhand dealer; requirement for license

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. Licenses; application; fee; grounds for denial; grant

(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. 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. License; renewal; forfeiture; grounds

(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. 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 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. Fees; electronic reporting system

(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:

(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 the single, statewide, uniform electronic reporting system described in subdivision (j) of Section 21628.

(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. Transactions with a minor

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

21645. Violations; misdemeanor; punishment

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. Violations or threatened violations; injunction

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. Peace officer hold on property

(a) Whenever any 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 pawnbroker, secondhand dealer, or coin dealer is stolen, the peace officer 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 pawnbroker, secondhand dealer, or coin dealer a written notice at the time the hold is placed, describing the item or items to be held. During that period the pawnbroker, secondhand dealer, or coin dealer shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by 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. A pawnbroker, secondhand property dealer, or coin dealer shall not be subject to civil liability for compliance with this section.

(b) Whenever property that is in the possession of a pawnbroker, secondhand dealer, or coin dealer, whether or not the property has been placed on hold, is required by a peace officer in a criminal investigation, the pawnbroker, secondhand dealer, or coin 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.

(c) Whenever a law enforcement agency has knowledge that property in the possession of a pawnbroker, secondhand dealer, or coin dealer has been reported as lost or stolen, the law enforcement agency shall notify in writing the person who reported the property as lost or stolen of the following:

(1) The name, address, and telephone number of the pawnbroker, secondhand dealer, or coin dealer who reported the acquisition of the 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 or stolen does not choose to participate in the prosecution of an identified alleged thief, the person shall pay the pawnbroker, secondhand dealer, or coin 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 or stolen takes no action to recover the property from the pawnbroker, secondhand dealer, or coin dealer within 60 days of the mailing of the notice, the pawnbroker, secondhand dealer, or coin dealer may treat the property as other property received in the ordinary course of business. During the 60-day notice period, the pawnbroker, secondhand dealer, or coin 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 or stolen deleted, will be mailed to the pawnbroker, secondhand dealer, or coin dealer who is in possession of the property.

(d) When property that is in the possession of a pawnbroker, secondhand dealer, or coin 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, the law enforcement agency that placed the hold on the property shall release the hold on the property. When the law enforcement agency has knowledge that the property has been reported lost or stolen, the law enforcement agency shall then make notification to the person who reported the property as lost or stolen pursuant to subdivision (c).

(e) If a pledgor seeks to redeem property that is subject to a hold, the 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 or stolen 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 pawnbroker, secondhand dealer, or coin dealer, and the property is thereafter placed on a hold pursuant to this section and 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 this section to the person who reported the property to be lost or stolen without a claim being made by that person, whichever is later, the pawnbroker, secondhand dealer, or coin 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. 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 pawnbroker, secondhand dealer, or coin 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.

(g) Nothing in this section shall be construed to alter the authority of a peace officer to seize property pursuant to any other provision of statutory or case law.

BUSINESS AND PROFESSIONS CODE

DIVISION 8 – SPECIAL BUSINESS REGULATION

CHAPTER 9 – SECONDHAND GOODS

Article 5 – RESALE OF GOODS

21650. Adequate evidence of authority to sell

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. Definitions

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. Presentation to dealer of adequate evidence of authority to sell

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. Violations

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 and fifty ($950), and is guilty of a misdemeanor if the value of the item does not exceed nine hundred and fifty dollars ($950).

BUSINESS AND PROFESSIONS CODE
DIVISION 8 – SPECIAL BUSINESS REGULATION
CHAPTER 9 – SECONDHAND GOODS

Article 6 – SWAP MEETS

21660. Legislative intent; application of article; uniform reports; ordinances and charters; land use and zoning regulations; secondhand dealers; operators and vendors

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.

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. Definitions

(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.

21662. Exclusions

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. Reports of property offered or displayed; contents; form

(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.

(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. Swap meet; reporting exemptions

(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.

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

(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.

(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. Copies of reports; retention by operators; time; inspection; vendor's copy; availability for inspection during swap meet

(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. Receipts for sale; prohibited personal property or merchandise; notice

(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. Violations; misdemeanor; punishment

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.

21668. Waiver of requirements for swap meet operators and vendors

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. Swap meets conducted on government premises; procedures; operation by government entities for profit

(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 idemnification 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. Swap meets on government property; average daily attendance of 10,000 or more; requirements

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.

(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.

BUSINESS AND PROFESSIONS CODE
DIVISION 8 – SPECIAL BUSINESS REGULATION
CHAPTER 9 – SECONDHAND GOODS

Article 7 – SPORTS TRADING CARDS

21670. Definitions

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.

21671. Alterations or refurbishments; certificates; violations; penalties

(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. Unlicensed or counterfeit sports trading cards; manufacture, production, distribution, or sale, violations; penalties

(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

Article 1 - Definitions

21000. Pawnbroker

Every person engaged in the business of receiving goods, including motor vehicles, in pledge as security for a loan is a pawnbroker within the meaning of this division.

21000.7. Receiving goods as security for a loan

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

21001. Compensation

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

21002. Pledged property; vested property

(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. Term: Month

For purposes of this division, the term "month" means a period of time consisting of 30 consecutive calendar days.

Article 2 - EXCEPTIONS TO THIS DIVISION

21050. Exempt persons

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. Loans of $2,500 or more

(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

PAWNBROKER REGULATIONS

21200. Maximum compensation

(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) Two and one-half 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 beless.

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

21200.1. Loan setup fee

A loan setup fee not to exceed five dollars ($5) or 2 percent, whichever is greater, may be charged for each loan. However, the maximum loan setup fee shall not exceed ten dollars ($10). Loan setup fees are in addition to any other allowed charges.

21200.5. Schedule of charges; posting

A pawnbroker may charge as prescribed in the following schedule:

(Schedule of Charges)

(a) A charge not exceeding one dollar ($1) per month for the first three months may be made on any loan which does not exceed fourteen dollars and ninety-nine cents ($14. 99).

(b) A charge not exceeding three dollars ($3) may be made on any loan for not more than three months of fifteen dollars ($15) or more, but not exceeding nineteen dollars and ninety-nine cents ($19.99).

(c) A charge not exceeding four dollars ($4) may be made on any loan for not more than three months of twenty dollars ($20) or more, but not exceeding twenty-four dollars and ninety-nine cents ($24.99).

(d) A charge not exceeding five dollars ($5) may be made on any loan for not more than three months of twenty-five dollars ($25) or more, but not exceeding thirty-nine dollars and ninety-nine cents ($39.99).

(e) A charge not exceeding six dollars ($6) may be made on any loan for not more than three months of forty dollars ($40) or more, but not exceeding forty-nine dollars and ninety-nine cents ($49.99).

(f) A charge not exceeding seven dollars and fifty cents ($7.50) may be made on any loan for not more than three months on any loan of fifty dollars ($50) or more, but not exceeding sixty-four dollars and ninety-nine cents ($64.99).

(g) A charge not exceeding eight dollars and fifty cents ($8.50) may be made on any loan for not more than three months of sixty-five dollars ($65) or more, but not exceeding seventy-four dollars and ninety-nine cents ($74.99).

(h) A charge not exceeding ten dollars ($10) 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).

(i) A charge not exceeding twelve dollars and fifty cents ($12.50) may be made on any loan for not more than three months of one hundred dollars ($100) or more, but not exceeding one hundred twenty-four dollars and ninety-nine cents ($124.99).

(j) A charge not exceeding thirteen dollars and fifty cents ($13.50) may be made on any loan for not more than three months of one hundred twenty-five dollars ($125) or more, but not exceeding one hundred forty-nine dollars and ninety-nine cents ($149.99).

(k) A charge not exceeding fifteen dollars ($15) may be made on any loan for not more than three months of one hundred fifty dollars ($150) or more, but not exceeding two hundred twenty-four dollars and ninety-nine cents ($224.99).

(l) A charge not exceeding twenty dollars ($20) may be made on any loan for not more than three months of two hundred twenty-five dollars ($225) or more, but not exceeding three hundred twenty-four dollars and ninety-nine cents ($324.99).

(m) A charge not exceeding twenty-five dollars ($25) may be made on any loan for not more than three months of three hundred twenty-five dollars ($325) or more, but not exceeding four hundred forty-nine dollars and ninety-nine cents ($449.99).

(n) A charge not exceeding thirty-five dollars ($35) may be made on any loan for not more than three months of four hundred fifty dollars ($450) or more, but not exceeding five hundred ninety-nine dollars and ninety-nine cents ($599.99).

(o) A charge not exceeding forty-five dollars ($45) may be made on any loan for not more than three months of six hundred dollars ($600) or more, but not exceeding seven hundred ninety-nine dollars and ninety-nine cents ($799.99).

(p) A charge not exceeding fifty-five dollars ($55) may be made on any loan for not more than three months of eight hundred dollars ($800) or more, but not exceeding nine hundred ninety-nine dollars and ninety-nine cents ($999.99).

(q) A charge not exceeding seventy dollars ($70) may be made in any loan for not more than three months of one thousand dollars ($1,000) or more, but not exceeding eleven hundred ninety-nine dollars and ninety-nine cents ($1,199.99).

(r) A charge not exceeding eighty-five dollars ($85) may be made on any loan for not more than three months of twelve hundred dollars ($1,200) or more, but not exceeding fourteen hundred ninety-nine dollars and ninety-nine cents ($1,499.99).

(s) A charge not exceeding one hundred dollars ($100) may be made on any loan for not more than three months of fifteen hundred dollars ($1,500) or more, but not exceeding seventeen hundred ninety-nine dollars and ninety-nine cents ($1,799.99).

(t) A charge not exceeding one hundred twenty dollars ($120) may be made on any loan for not more than three months of eighteen hundred dollars ($1,800) or more, but not exceeding two thousand ninety-nine dollars and ninety-nine cents ($2,099.99).

(u) A charge not exceeding one hundred forty dollars ($140) may be made on any loan for not more than three months of twenty-one hundred dollars ($2,100) or more, but not exceeding twenty-four hundred ninety-nine dollars and ninety-nine cents ($2,499.99).

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

21200.6. Handling and storage charges

(a) In addition to other allowed charges, at the time property is redeemed a pawnbroker may collect a handling and storage charge for certain pawned articles. Irrespective of the duration of the loan, the maximum amount that may be charged pursuant to this section is in accordance with the following schedule:

(1) Five dollars ($5) for any article that cannot be contained within one cubic foot.

(2) Ten dollars ($10) for any article that cannot be contained within three cubic feet.

(3) 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) No storage charge is allowed for any article that can be contained within one cubic foot.

(c) 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. Posting of maximum compensation

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. Processing charge for firearms

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

21200.9. Repurchase of property; no promise by pawnbroker to seller

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

21201. Written contract to be furnished borrower; contents; notice retention and redemption of pledged articles; foreclosure; sale of pledged property

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 borrower. The loan contract shall provide a four-month loan period, shall set forth the loan period and the date on which the loan is due and payable, and shall clearly inform the borrower of his or her right to redeem the pledge during the loan period.

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 borrower's signature:

"You may redeem the property you have pledged at any time until the close of business on ____fill in date 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."

Every pawnbroker shall retain in his or her possession every article pledged to him or her for a period of four months. During such period the borrower may redeem the articles upon payment of the amount of the loan and the applicable charges. If the borrower 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 consumer the next calendar day when both the pawnbroker's store and the storage facility are open, not to exceed two business days.

If any pledged article is not redeemed during the four-month loan period as provided herein, and the borrower and pawnbroker do not mutually agree in writing to extend the loan period, the pawnbroker shall notify the borrower within one month after expiration of the loan period. If the pawnbroker fails to notify the borrower 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 borrower at his or her last known address of the termination of the loan period, by a means for which verification of mailing or delivery 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 of that notice. The 10-day notice shall include a statement that: "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."

However, the posted schedule of charges required pursuant to Section 21200.5 shall contain a notice informing the borrower 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. 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. The sale of pledged property is a misdemeanor pursuant to Section 21209.

21201.1. Loss of pawn ticket; verification of claimant; fee

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. Notice of expiration of redemption; fee

If the pledgor fails to redeem any pawned item during the loan period, thereby obliging the pawnbroker to mail 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. Written contract, item storage provision; insurance of items; violation; penalty

(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 Determination of charges

Charges for the first three months of any loan made pursuant to the written contract required by Section 21201 or 21200.5 shall be determined by the application of the schedule of charges contained in Section 21200.5. Charges for any period 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. New loan on pledged property

A pledgor may request, and a pawnbroker may consent to, a new loan to take effect upon or at any time after the expiration of the loan period stated in the original loan contract delivered to the pledgor under Section 21201. The pledgor shall pay in cash or another form acceptable to the pawnbroker all of the charges and interest due under the original loan, and the remaining unpaid balance of the actual amount borrowed under the original loan shall be debited to the new loan on which the same article or articles are pledged. The loan to which the debit is applied shall be processed as a new loan and shall be deemed to be a new loan subject to loan origination fees, storage fees, and other fees permitted by this chapter, when applicable. The new loan contract required by Section 21201 shall disclose the amount of the original loan that is debited to the new loan.

21202. Pawn loan records; delivery of copy to pledgor

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. Loan redemption; return of property

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. Loan redemption; fees and charges

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.

21206. Inspection of records and accounts

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. Receipt upon seizure of property alleged to be stolen

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. Disposal of property stolen or embezzled; notice; time; liability of pawnbroker

(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 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 having custody of the property shall notify 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.

(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.

(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. Pledges of minors

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

21208. Reports to law enforcement

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. Violations; misdemeanor

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.

FINANCIAL CODE

DIVISION 8: PAWNBROKERS

CHAPTER 3

LICENSURE

21300. Application for license; requirements; fees

(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.

21300.1 Unlicensed persons acting as pawnbroker

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. Renewal; grounds for forfeiture

(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.

21301.1 Unlawful act; advertising without license number

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. Injunctions

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. Surety bond

(a) As a condition precedent to the issuance or renewal of a pawnbroker's license the applicant shall file a pawnbroker's two-year nonrevokable 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. Financial statement; liquid assets; application of section

(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.

(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. Transfer or assignment

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

21306. Exemption; secondhand dealer license

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. Violations; penalties

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

PRELIMINARY PROVISIONS PART 2:

OF CRIMINAL PROCEDURE

TITLE 10 – MISCELLANEOUS PROCEEDINGS

CHAPTER 12 – DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED

1407. Property in custody of peace officer; holding subject to provisions of chapter

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. Property in custody of peace officer; order for delivery to owner; payment of expenses

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.

1409. Property in custody of magistrate; delivery to owner; proof of title; payment of expenses

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. Property not delivered to owner; proof of title; order for restoration by trial court

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. Unclaimed property delivered to county officer; notice to owner or holder of security interest; failure to claim; disposition

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 provision of 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. 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.

1412. Money or property taken from defendant on arrest; duplicate receipts; filing or delivery of receipts

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. Person in charge of property section; record of property allegedly stolen or embezzled; delivery to owner; review by magistrate; liability

(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. 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.

CHAPTER 5 – LARCENY (THEFT)

484.1. Pawnbrokers or secondhand dealer; false information or false verification of ownership of property to receive money or valuable consideration; restitution

(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.

496. Receiving stolen property; knowledge; concealment; punishment.

(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 district attorney or the grand jury determines that this action would be in the interests of justice, the district attorney or the grand jury, as the case may be, may, if the value of the property does not exceed nine hundred fifty dollars ($950), specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in a county jail not exceeding one year.

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.

(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. Junk and secondhand dealers; purchasing metals used in transportation or public utility service; determination of seller's right; punishment; record of transaction

(a) Every person who, being a dealer in or collector of junk, metals or secondhand materials, or the agent, employee, or representative of such dealer or collector, 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 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 is punishable, 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 two hundred fifty dollars ($250), or by both that fine and imprisonment.

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

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

537e. Articles from which serial numbers or identification marks have been removed; purchase, sale, possession; disposition by peace officers; exceptions

(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.