

AMENDED IN ASSEMBLY JUNE 4, 2013

AMENDED IN SENATE APRIL 15, 2013

**SENATE BILL**

**No. 762**

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**Introduced by Senator Hill**

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

(2) Existing law, the California Control of Profits of Organized Crime Act, defines criminal profiteering as any act committed or attempted,

or any threat made for financial gain or advantage, that may be charged as a crime under specified provisions. Under existing law, property and assets acquired or received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity are subject to forfeit. The money proceeds from that forfeiture are distributed as prescribed.

This bill would prescribe that funds derived from a forfeiture of lost, stolen, or embezzled items seized from a pawnbroker or secondhand dealer be distributed ~~45% to initiating law enforcement agency, 45% to prosecuting attorney's office, and 10% to the Restitution Fund, a continuously appropriated fund, thereby making an appropriation~~ *50% to the general fund of the city, county, or city and county that instituted the forfeiture and 50% to the general fund of the city, county, or city and county that prosecuted the forfeiture.*

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

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

~~possession of at the conclusion of the criminal proceedings. This bill would also authorize the issuance of a search warrant in specified circumstances, including where the property is being concealed by a pawnbroker who is the subject of a criminal investigation or if a pawnbroker or secondhand dealer refuses to honor the hold upon request of a peace officer.~~

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

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 21647 of the Business and Professions  
2 Code is amended to read:  
3 21647. (a) (1) If a peace officer has probable cause to believe  
4 that property, except coins, monetized bullion, or “commercial  
5 grade ingots” as defined in subdivision (d) of Section 21627, in  
6 the possession of a licensed pawnbroker or secondhand dealer is  
7 lost, stolen, or embezzled, the peace officer may place a hold on  
8 the property for a period not to exceed 90 days. ~~When a peace  
9 officer places a hold on the property, the peace officer shall give  
10 the licensed pawnbroker or secondhand dealer a written notice at  
11 the time the hold is placed, describing the item or items to be held.  
12 During that period the peace officer may take custody of the  
13 property as evidence or leave it with the licensed pawnbroker or  
14 secondhand dealer. If the peace officer placing the hold leaves the  
15 item with the licensed pawnbroker or secondhand dealer, that  
16 pawnbroker or secondhand dealer shall not release or dispose of  
17 the property, except pursuant to a court order or upon receipt of a  
18 written authorization signed by any peace officer who is a member  
19 of the law enforcement agency of which the peace officer placing  
20 the hold on the property is a member. A licensed pawnbroker or~~

1 ~~secondhand dealer is not subject to civil liability for compliance~~  
2 ~~with this section.~~

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

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

7 (i) An accurate description of the property being placed on the  
8 90-day hold.

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

14 (iii) The law enforcement agency's police report or department  
15 record number, if issued, for which the property is needed as  
16 evidence.

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

20 (B) Will not exceed a period of 90 calendar days, but may be  
21 renewed as provided in subparagraph (C).

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

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

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

38 (F) Terminates when the property is no longer needed as  
39 evidence in a criminal investigation or criminal proceeding, at

1 *which time the property shall be disposed of pursuant to*  
2 *subdivision (d).*

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

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

19 (2) If property placed on hold pursuant to this section is  
20 physically surrendered or delivered to a law enforcement agency  
21 during the period of the hold, the hold and the pawnbroker's lien  
22 against the property shall continue. ~~Upon termination of criminal~~  
23 ~~proceedings for which the property was placed on hold, the~~  
24 ~~property shall be returned to the licensed pawnbroker from whom~~  
25 ~~it was taken for disposition provided under subdivision (d).~~

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

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

36 (2) That the law neither requires nor prohibits payment of a fee  
37 or any other condition in return for the surrender of the property,  
38 except that when the person who reported the property lost, stolen,  
39 or embezzled does not choose to participate in the prosecution of  
40 an identified alleged thief, the person shall pay the licensed

1 pawnbroker or secondhand dealer the “out-of-pocket” expenses  
2 paid in the acquisition of the property in return for the surrender  
3 of the property.

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

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

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

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

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

38 (g) If the hold, including any additional hold, is allowed to lapse,  
39 or 60 days elapse following the delivery of the notice required to  
40 be given by subdivision (c) to the person who reported the property

1 to be lost, stolen, or embezzled without a claim being made by  
2 that person, whichever is later, the licensed pawnbroker or  
3 secondhand dealer may mail under a certificate of mailing issued  
4 by the United States Post Office, addressed to the law enforcement  
5 agency that placed the property on hold, a written request to delete  
6 the property listing from the Department of Justice automated  
7 property system or automated firearms system, as is applicable.  
8 Within 30 days after the request has been mailed, the law  
9 enforcement agency shall either cause the property listing to be  
10 deleted as requested or place a hold on the property. If no law  
11 enforcement agency takes any further action with respect to the  
12 property within 45 days after the mailing of the request, the  
13 licensed pawnbroker or secondhand dealer may presume that the  
14 property listing has been deleted as requested and may thereafter  
15 deal with the property accordingly, and shall not be subject to  
16 liability arising from the failure of the removal of the property  
17 listing from the Department of Justice automated property system  
18 or automated firearms system.

19 (h) A licensed pawnbroker or secondhand dealer shall not refuse  
20 a request to place property in their possession on hold pursuant to  
21 this section when a peace officer has probable cause to believe the  
22 property is lost, stolen, or embezzled. If a licensed pawnbroker or  
23 secondhand dealer refuses a request to place property on hold  
24 pursuant to this section, ~~after being provided written notice of the~~  
25 ~~provisions of this section,~~ the property may be seized with or  
26 without a warrant. The peace officer shall issue a receipt, as  
27 described in Section 21206.7 of the Financial Code, left with the  
28 licensed pawnbroker or secondhand dealer. The property shall be  
29 disposed of pursuant to procedures set forth in Section 21206.8 of  
30 the Financial Code, which shall apply to both licensed pawnbrokers  
31 and secondhand dealers under this section.

32 (i) ~~A~~ ~~If a~~ search warrant ~~shall not be~~ *is* issued for the search of  
33 the business of a licensed pawnbroker or secondhand dealer, ~~unless~~  
34 ~~the application by the peace officer discloses and the court so~~  
35 ~~concludes that either (1) the evidence sought to be secured by the~~  
36 ~~search warrant is sought for its evidentiary value other than being~~  
37 ~~property that is lost, stolen, or embezzled; (2) the peace officer's~~  
38 ~~prior efforts taken to utilize the hold procedures set forth in this~~  
39 ~~section establishes to the court's satisfaction that the licensed~~  
40 ~~pawnbroker or secondhand dealer has refused to voluntarily~~

1 ~~surrender the lost, stolen, or embezzled property; or that (3) there~~  
2 ~~is probable cause to believe that the lost, stolen, or embezzled~~  
3 ~~property is willfully being concealed by the licensed pawnbroker~~  
4 ~~or secondhand dealer and that any notice required by this section~~  
5 ~~would frustrate the criminal investigation of the licensed~~  
6 ~~pawnbroker or secondhand dealer~~ *dealer to secure lost, stolen, or*  
7 *embezzled property that has been placed on hold, the hold shall*  
8 *continue for the duration that the property remains subject to the*  
9 *court's jurisdiction. Notwithstanding any other law, when the use*  
10 *of the property seized for a criminal investigation or criminal*  
11 *proceeding has concluded, the property shall be disposed of*  
12 *pursuant to subdivision (d).*

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

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

21 SEC. 2. Section 21206.8 of the Financial Code is amended to  
22 read:

23 21206.8. (a) Notwithstanding the provisions of Chapter 12  
24 (commencing with Section 1407) of Title 10 of Part 2 of the Penal  
25 Code, whenever property alleged to have been lost, stolen, or  
26 embezzled is taken from a pawnbroker, the peace officer,  
27 magistrate, court, clerk, or other person having custody of the  
28 property shall not deliver the property to any person claiming  
29 ownership unless the provisions of this section are complied with.

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

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



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

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

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

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

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

25 186.2. For purposes of this chapter, the following definitions  
26 apply:

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

31 (1) Arson, as defined in Section 451.

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

33 (3) Child pornography or exploitation, as defined in subdivision  
34 (b) of Section 311.2, or Section 311.3 or 311.4, which may be  
35 prosecuted as a felony.

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

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

38 (6) Extortion, as defined in Section 518.

39 (7) Forgery, as defined in Section 470.

- 1 (8) Gambling, as defined in Sections 337a to 337f, inclusive,  
2 and Section 337i, except the activities of a person who participates  
3 solely as an individual bettor.
- 4 (9) Kidnapping, as defined in Section 207.
- 5 (10) Mayhem, as defined in Section 203.
- 6 (11) Murder, as defined in Section 187.
- 7 (12) Pimping and pandering, as defined in Section 266.
- 8 (13) Receiving stolen property, as defined in Section 496.
- 9 (14) Robbery, as defined in Section 211.
- 10 (15) Solicitation of crimes, as defined in Section 653f.
- 11 (16) Grand theft, as defined in Section 487.
- 12 (17) Trafficking in controlled substances, as defined in Sections  
13 11351, 11352, and 11353 of the Health and Safety Code.
- 14 (18) Violation of the laws governing corporate securities, as  
15 defined in Section 25541 of the Corporations Code.
- 16 (19) Any of the offenses contained in Chapter 7.5 (commencing  
17 with Section 311) of Title 9, relating to obscene matter, or in  
18 Chapter 7.6 (commencing with Section 313) of Title 9, relating to  
19 harmful matter that may be prosecuted as a felony.
- 20 (20) Presentation of a false or fraudulent claim, as defined in  
21 Section 550.
- 22 (21) False or fraudulent activities, schemes, or artifices, as  
23 described in Section 14107 of the Welfare and Institutions Code.
- 24 (22) Money laundering, as defined in Section 186.10.
- 25 (23) Offenses relating to the counterfeit of a registered mark,  
26 as specified in Section 350.
- 27 (24) Offenses relating to the unauthorized access to computers,  
28 computer systems, and computer data, as specified in Section 502.
- 29 (25) Conspiracy to commit any of the crimes listed above, as  
30 defined in Section 182.
- 31 (26) Subdivision (a) of Section 186.22, or a felony subject to  
32 enhancement as specified in subdivision (b) of Section 186.22.
- 33 (27) Any offenses related to fraud or theft against the state's  
34 beverage container recycling program, including, but not limited  
35 to, those offenses specified in this subdivision and those criminal  
36 offenses specified in the California Beverage Container Recycling  
37 and Litter Reduction Act, ~~commencing at Section 14500~~ *Chapter*  
38 *1 (commencing with Section 14500) of Division 12.1* of the Public  
39 Resources Code.
- 40 (28) Human trafficking, as defined in Section 236.1.

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

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

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

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

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

19 (34) Buying, selling, trading, accepting for sale on consignment,  
20 accepting for auctioning, or auctioning secondhand tangible  
21 personal property as defined by Section 21627 of the Business and  
22 Professions Code, including, but not limited to, gold, silver,  
23 platinum, palladium, and jewelry made of gold, silver, platinum,  
24 palladium, or having any diamond, ruby, emerald, or other precious  
25 stone, or any item containing sterling or fine silver ~~without being~~  
26 ~~licensed pursuant to~~ *in violation of* Section 21640 of the Business  
27 and Professions Code.

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

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

34 (B) Are not isolated events.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (g) In any case described in paragraph (34) of subdivision (a)  
10 of Section 186.2, in lieu of the distribution provided for in  
11 subdivision (c), the proceeds shall be distributed in the following  
12 manner: ~~(1) 45~~ 50 percent shall be distributed into the general fund  
13 of the city, county, or city and county that instituted the forfeiture,  
14 ~~(2) 45 and 50~~ percent shall be distributed to the general fund of  
15 the city, county, or city and county that prosecuted the forfeiture,  
16 and ~~(3) 10~~ percent shall be distributed to the Restitution Fund  
17 forfeiture.

18 SEC. 5. Section 1411 of the Penal Code is amended to read:

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

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

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

32 SEC. 6. Section 11108.5 of the Penal Code is amended to read:  
33 11108.5. (a) If a law enforcement agency identifies serialized  
34 property or any property reported pursuant to Section 21628 of  
35 the Business and Professions Code that has been reported lost or  
36 stolen by the owner or a person entitled to possession of the  
37 property and the property has been entered into the appropriate  
38 Department of Justice automated property system pursuant to  
39 Section 11108, the agency shall notify the owner or person  
40 claiming to be entitled to possession of the property of the location

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

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

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

21 SEC. 7. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.