

No. S262081

**IN THE
SUPREME COURT
OF THE STATE OF CALIFORNIA**

SIRY INVESTMENT, L.P.

Plaintiff & Appellant,

vs.

SAEED FARKHONDEHPOUR, et al.

Defendants & Appellants.

and Consolidated Cases.

On Appeal from Judgment/Orders of Los Angeles Superior Court
No. BC372362, Hon. Stephanie Bowick & Hon. Edward B. Moreton
After Published Decision by Court of Appeal, Second District, Div. Two
No. B277750; c/w B279009 & B285904

**MOTION FOR JUDICIAL NOTICE BY
APPELLANT SIRY INVESTMENTS, L.P.**

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IN THE
SUPREME COURT OF CALIFORNIA

SIRY INVESTMENT, L.P.

Plaintiff & Appellant,

vs.

SAEED FARKHONDEHPOUR, et al.

Defendants & Appellants.

and Consolidated Cases.

MOTION FOR JUDICIAL NOTICE

Pursuant to Evidence Code sections 452, subdivision (c), 453, 459, and rules 8.520(g) and 8.252(a) of the California Rules of Court, appellant Siry Investment (“Siry”) requests judicial notice of proposed bills (and the chaptered law) pertaining to Penal Code section 496, as amended in 1972. These documents are cited in Siry’s opening brief on the merits.

This motion is supported by the attached memorandum of points and authorities, the attached declarations of Robert Cooper and Lisa Hampton, and the supporting exhibits.

We acknowledge this request may be deemed unnecessary to the extent the statutory language – authorizing “[a]ny person who has been injured” to pursue civil remedies – is deemed to be unambiguous. (Pen. Code, § 496, subd. (c).) However, because the

Court of Appeal discussed the legislative history of this provision, Siry is presenting this motion so that this Court can decide whether resort to legislative history is necessary here.

Respectfully submitted,

Dated: October 30, 2020

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

By: /s/ Robert Cooper
Robert Cooper
Attorneys for Plaintiff/Appellant
SIRY INVESTMENTS, L.P.

MEMORANDUM OF POINTS AND AUTHORITIES

Assuming resort to legislative history is necessary in this case, judicial notice should be taken of the legislative history materials cited in the opening brief on the merits.

Under Evidence Code section 452, subdivision (c), judicial notice may be taken of “[o]fficial acts of the legislative, executive, and judicial departments ... of any state of the United States.” (See *Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 279, fn. 9 [granting request for judicial notice of legislative history materials].) Appellate courts have the same power as trial courts in evaluating requests for judicial notice. (Evid. Code, § 459, subd. (b).)

Siry requests judicial notice of the documents cited in its opening brief on the merits reflecting the different proposed amendments to Penal Code section 496. In particular, judicial notice is requested as to four such documents: (1) Sen. Bill No. 1068 (1972 Reg. Sess.) § 1, March 15, 1972 [Cooper Decl., exh. 1, Motion for Judicial [“MJN”] 14-16]; (2) Sen. Amend. to Sen. Bill No. 1068 (1972 Reg. Sess.) § 1, May 30, 1972 [Cooper Decl., exh. 2, MJN 18-21]; Sen. Amend. to Sen. Bill No. 1068 (1972 Reg. Sess.) § 1, June 26, 1972 [Cooper Decl., exh. 3, MJN 23-26]; Assem. Amend. to Sen. Bill No. 1068 (1972 Reg. Sess.) § 1, July 27, 1972 [Cooper Decl., exh. 4, MJN 28-30].) In addition, Siry requests

judicial notice of the chaptered law. (Stats. 1972, ch. 963, § 1, pp. 1739-1740 [Cooper Decl., exh. 5, MJN 32-34].) ¹

Although Siry seeks judicial notice only as to these five documents, the entire legislative history obtained from the vendor is presented here to avoid selective presentation. (See generally *Drouet v. Superior Court* (2003) 31 Cal.4th 583, 598 [criticizing reliance on “isolated fragments” of legislative history]; *People v. Valenzuela* (2001) 92 Cal.App.4th 768, 776, fn. 4 [“The entire legislative history should have been submitted to us”].)

With respect to the information required under California Rules of Court, rule 8.252, Siry disagrees with the Court of Appeal’s discussion pertaining to the legislative history of section 496’s civil remedies (typed opn. 45). (Rule 8.252(a)(2)(A).) These materials were not presented to the trial court. (Rule 8.252(a)(2)(B).) Bill versions can be the subject of judicial notice under *Quintano v. Mercury Casualty Co.* (1995) 11 Cal.4th 1049, 1062, fn. 5. (Rule 8.252(a)(2)(C).) Finally, these materials do not relate to post-judgment proceedings. (Rule 8.252(a)(2)(D).)

¹ All of this legislative history is contained in the exhibits filed concurrently with this request. These materials were obtained from LRI History, a legislative research vendor.

CONCLUSION

In the event the Court deems resort to legislative history as necessary or proper, the Court should take judicial notice of the five items referenced above.

Respectfully submitted,

Dated: October 30, 2020

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

By: /s/ Robert Cooper
Robert Cooper
Attorneys for Plaintiff/Appellant
SIRY INVESTMENTS, L.P.

DECLARATION OF ROBERT COOPER

I, Robert Cooper, declare:

1. I am an attorney admitted to practice law in California. I am employed by the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP as counsel for appellant.

2. As part of my work preparing the opening brief on the merits, I contacted Lisa Hampton of LRI History, LLC. I asked her to provide me the complete legislative history for the 1972 amendments to Penal Code section by which the civil remedies were added to this statute.

3. As explained in Ms. Hampton's declaration, she subsequently did so. Accompanying this request are the documents she sent me.

4. For the Court's convenience, I have segregated and attached to my declaration the four proposed bills and the chaptered law pertaining to the 1972 amendments discussed in our brief. Those documents can also be found in the entire set of materials LRI sent me (attached to the Declaration of Lisa Hampton).

5. Attached as Exhibit 1 is a true and correct copy of Senate Bill No. 1068 (1972 Reg. Sess.) § 1, March 15, 1972. (Cooper Decl., exh. 1, MJN 14-16.)

6. Attached as Exhibit 2 is a true and correct copy of Senate Amendment to Sen. Bill No. 1068 (1972 Reg. Sess.) § 1, May 30, 1972. (Cooper Decl., exh. 2, MJN 18-21.)

7. Attached as Exhibit 3 is a true and correct copy of Senate Amendment to Sen. Bill No. 1068 (1972 Reg. Sess.) § 1, June 26, 1972. (Cooper Decl., exh. 3, MJN 23-26.)

8. Attached as Exhibit 4 is a true and correct copy of Assembly Amendment to Sen. Bill No. 1068 (1972 Reg. Sess.) § 1, July 27, 1972. (Cooper Decl., exh. 4, MJN 28-30.)

9. Attached as Exhibit 5 is a true and correct copy of the chaptered law: Stats. 1972, ch. 963, § 1, pp. 1739-1740. (Cooper Decl., exh. 5, MJN 32-34.)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed October 30, 2020, at Los Angeles, California.

By: /s/ Robert Cooper
Robert Cooper

EXHIBIT 1

Introduced by Senator Zenovich

March 15, 1972

An act to amend Section 496 of the Penal Code, relating to stolen property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as introduced, Zenovich. Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for specified amount against person committing such violation.

Vote—Majority; Appropriation—No; Fiscal Committee—No.

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

1 SECTION 1. Section 496 of the Penal Code is amended
2 to read:
3 496. 1. Every person who buys or receives any
4 property which has been stolen or which has been
5 obtained in any manner constituting theft or extortion,
6 knowing the property to be so stolen or obtained, or who
7 conceals, withholds or aids in concealing or withholding
8 any such property from the owner, knowing the property
9 to be so stolen or obtained, is punishable by
10 imprisonment in a state prison for not more than 10 years,
11 or in a county jail for not more than one year; provided,
12 that where the district attorney or the grand jury
13 determines that such action would be in the interests of
14 justice, the district attorney or the grand jury, as the case
15 may be, may, if the value of the property does not exceed
16 two hundred dollars (\$200), specify in the accusatory
17 pleading that the offense shall be a misdemeanor,

MJN_012

1 punishable only by imprisonment in the county jail not
2 exceeding one year.

3 2. Every person whose principal business is dealing in
4 or collecting used or secondhand merchandise or
5 personal property, and every agent, employee or
6 representative of such person, who buys or receives any
7 property which has been stolen or obtained in any
8 manner constituting theft or extortion, under such
9 circumstances as should cause such person, agent,
10 employee or representative to make reasonable inquiry
11 to ascertain that the person from whom such property
12 was bought or received had the legal right to sell or
13 deliver it, without making such reasonable inquiry, shall
14 be presumed to have bought or received such property
15 knowing it to have been so stolen or obtained. This
16 presumption may, however, be rebutted by proof.

17 3. When in a prosecution under this section it shall
18 appear from the evidence that the defendant's principal
19 business was as set forth in the preceding paragraph, that
20 the defendant bought, received, or otherwise obtained,
21 or concealed, withheld or aided in concealing or
22 withholding from the owner, any property which had
23 been stolen or obtained in any manner constituting theft
24 or extortion, and that the defendant bought, received,
25 obtained, concealed or withheld such property under
26 such circumstances as should have caused him to make
27 reasonable inquiry to ascertain that the person from
28 whom he bought, received, or obtained such property
29 had the legal right to sell or deliver it to him, then the
30 burden shall be upon the defendant to show that before
31 so buying, receiving, or otherwise obtaining such
32 property, he made such reasonable inquiry to ascertain
33 that the person so selling or delivering the same to him
34 had the legal right to so sell or deliver it.

35 4. *Any person who has been injured by a violation of*
36 *this section may bring an action against the person who*
37 *committed the violation for the greater of the following*
38 *amounts:*

39 (a) _____ dollars (\$_____), costs of suit, and
40 reasonable attorney's fees.

- 1 *(b) Three times the amount of actual damages, if any,*
- 2 *sustained by the plaintiff, costs of suit and reasonable*
- 3 *attorney's fees.*

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EXHIBIT 2

Introduced by Senator Zenovich

March 15, 1972

An act to amend Section 496 of the Penal Code, relating to stolen property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as amended, Zenovich. Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for specified amount against person committing such violation.

Specifies records required to be maintained by persons furnishing space in market place to vendors for sale of personal property, and provides that failure to so maintain may create liability in connection with civil action referred to above.

Vote—Majority; Appropriation—No;
Fiscal Committee—No.

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

- 1 SECTION 1. Section 496 of the Penal Code is amended
2 to read:
3 496. 1. Every person who buys or receives any
4 property which has been stolen or which has been
5 obtained in any manner constituting theft or extortion,
6 knowing the property to be so stolen or obtained, or who
7 conceals, withholds or aids in concealing or withholding
8 any such property from the owner, knowing the property
9 to be so stolen or obtained, is punishable by
10 imprisonment in a state prison for not more than 10 years,

1 or in a county jail for not more than one year; provided,
2 that where the district attorney or the grand jury
3 determines that such action would be in the interests of
4 justice, the district attorney or the grand jury, as the case
5 may be, may, if the value of the property does not exceed
6 two hundred dollars (\$200), specify in the accusatory
7 pleading that the offense shall be a misdemeanor,
8 punishable only by imprisonment in the county jail not
9 exceeding one year.

10 2. Every person whose principal business is dealing in
11 or collecting used or secondhand merchandise or
12 personal property, and every agent, employee or
13 representative of such person, who buys or receives any
14 property which has been stolen or obtained in any
15 manner constituting theft or extortion, under such
16 circumstances as should cause such person, agent,
17 employee or representative to make reasonable inquiry
18 to ascertain that the person from whom such property
19 was bought or received had the legal right to sell or
20 deliver it, without making such reasonable inquiry, shall
21 be presumed to have bought or received such property
22 knowing it to have been so stolen or obtained. This
23 presumption may, however, be rebutted by proof.

24 3. When in a prosecution under this section it shall
25 appear from the evidence that the defendant's principal
26 business was as set forth in the preceding paragraph, that
27 the defendant bought, received, or otherwise obtained,
28 or concealed, withheld or aided in concealing or
29 withholding from the owner, any property which had
30 been stolen or obtained in any manner constituting theft
31 or extortion, and that the defendant bought, received,
32 obtained, concealed or withheld such property under
33 such circumstances as should have caused him to make
34 reasonable inquiry to ascertain that the person from
35 whom he bought, received, or obtained such property
36 had the legal right to sell or deliver it to him, then the
37 burden shall be upon the defendant to show that before
38 so buying, receiving, or otherwise obtaining such
39 property, he made such reasonable inquiry to ascertain
40 that the person so selling or delivering the same to him

1 had the legal right to so sell or deliver it.

2 ~~4. Any person who has been injured by a violation of~~
3 ~~this section may bring an action against the person who~~
4 ~~committed the violation for the greater of the following~~
5 ~~amounts:~~

6 ~~(a) dollars (\$), costs of suit, and~~
7 ~~reasonable attorney's fees.~~

8 ~~(b) Three times the amount of actual damages, if any,~~
9 ~~sustained by the plaintiff, costs of suit and reasonable~~
10 ~~attorney's fees.~~

11 *4. Any person, including an agent, employee or*
12 *representative of a principal, who furnishes temporary*
13 *space in a market place open to the public, whether or*
14 *not members of the public are required to pay a fee or to*
15 *acquire a membership in or to join an organization to be*
16 *entitled to admission to such market place, to a vendor or*
17 *vendors for the display of personal property for sale in*
18 *such market place shall maintain on a daily basis a*
19 *permanent record of:*

20 *(a) The name and address of each vendor;*

21 *(b) A description of the property offered for sale in the*
22 *market place by each vendor (including the name of the*
23 *manufacturer and the model name or number if such*
24 *property is normally sold at retail by such designations*
25 *and the serial number if such property is normally*
26 *identified by or given a serial number); and*

27 *(c) The name and address of the person from whom*
28 *the vendor acquired any property offered for sale in the*
29 *market place, unless the property is used and has been*
30 *owned by the vendor for two or more years prior to the*
31 *date first offered for sale in the market place.*

32 *Any person, including an agent, employee or*
33 *representative of a principal, who fails to comply with the*
34 *recordkeeping requirements of this subdivision shall be*
35 *presumed to be aiding and abetting any vendor or*
36 *vendors who knowingly offer stolen property for sale in*
37 *a market place of the type described herein for the*
38 *purposes of action for damages arising under subdivision*

39 *5.*

40 *5. Any for-hire carrier operating under the jurisdiction*

1 *of the Public Utilities Commission who has been injured*
2 *by either a violation of this section or by the failure of any*
3 *person to comply with its provisions may bring an action*
4 *for the greater of the following:*

5 *(a) One thousand dollars (\$1,000), costs of suit, and*
6 *reasonable attorney's fees.*

7 *(b) Three times the amount of actual damages, if any,*
8 *sustained by the plaintiff, costs of suit and reasonable*
9 *attorney's fees.*

10 *When an action is brought for failure to comply with*
11 *the provisions of this section, plaintiff need only show the*
12 *failure by a preponderance of the evidence.*

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EXHIBIT 3

AMENDED IN SENATE JUNE 26, 1972

AMENDED IN SENATE MAY 30, 1972

SENATE BILL

No. 1068

Introduced by Senator Zenovich

March 15, 1972

An act to amend Section 496 of the Penal Code, relating to stolen property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as amended, Zenovich. Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for specified amount against person committing such violation.

~~Specifies records required to be maintained by persons furnishing space in market place to vendors for sale of personal property, and provides that failure to so maintain may create liability in connection with civil action referred to above.~~

Vote—Majority; Appropriation—No;
Fiscal Committee—No.

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

- 1 SECTION 1. Section 496 of the Penal Code is amended
2 to read:
3 496. 1. Every person who buys or receives any
4 property which has been stolen or which has been
5 obtained in any manner constituting theft or extortion,
6 knowing the property to be so stolen or obtained, or who
7 conceals, *sells*, withholds or aids in concealing, *selling*, or
8 withholding any such property from the owner, knowing
9 the property to be so stolen or obtained, is punishable by

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1 imprisonment in a state prison for not more than 10 years,
2 or in a county jail for not more than one year; provided,
3 that where the district attorney or the grand jury
4 determines that such action would be in the interests of
5 justice, the district attorney or the grand jury, as the case
6 may be, may, if the value of the property does not exceed
7 two hundred dollars (\$200), specify in the accusatory
8 pleading that the offense shall be a misdemeanor,
9 punishable only by imprisonment in the county jail not
10 exceeding one year.

11 2. Every person whose principal business is dealing in
12 or collecting used or secondhand merchandise or
13 personal property, and every agent, employee or
14 representative of such person, who buys or receives any
15 property which has been stolen or obtained in any
16 manner constituting theft or extortion, under such
17 circumstances as should cause such person, agent,
18 employee or representative to make reasonable inquiry
19 to ascertain that the person from whom such property
20 was bought or received had the legal right to sell or
21 deliver it, without making such reasonable inquiry, shall
22 be presumed to have bought or received such property
23 knowing it to have been so stolen or obtained. This
24 presumption may, however, be rebutted by proof.

25 3. When in a prosecution under this section it shall
26 appear from the evidence that the defendant's principal
27 business was as set forth in the preceding paragraph, that
28 the defendant bought, received, or otherwise obtained,
29 or concealed, withheld or aided in concealing or
30 withholding from the owner, any property which had
31 been stolen or obtained in any manner constituting theft
32 or extortion, and that the defendant bought, received,
33 obtained, concealed or withheld such property under
34 such circumstances as should have caused him to make
35 reasonable inquiry to ascertain that the person from
36 whom he bought, received, or obtained such property
37 had the legal right to sell or deliver it to him, then the
38 burden shall be upon the defendant to show that before
39 so buying, receiving, or otherwise obtaining such
40 property, he made such reasonable inquiry to ascertain

1 that the person so selling or delivering the same to him
2 had the legal right to so sell or deliver it.

3 4. Any person, including an agent, employee or
4 representative of a principal, who furnishes temporary
5 space in a market place open to the public, whether or
6 not members of the public are required to pay a fee or to
7 acquire a membership in or to join an organization to be
8 entitled to admission to such market place; to a vendor or
9 vendors for the display of personal property for sale in
10 such market place shall maintain on a daily basis a
11 permanent record of:

12 (a) The name and address of each vendor;

13 (b) A description of the property offered for sale in the
14 market place by each vendor (including the name of the
15 manufacturer and the model name or number if such
16 property is normally sold at retail by such designations
17 and the serial number if such property is normally
18 identified by or given a serial number); and

19 (c) The name and address of the person from whom
20 the vendor acquired any property offered for sale in the
21 market place; unless the property is used and has been
22 owned by the vendor for two or more years prior to the
23 date first offered for sale in the market place.

24 Any person, including an agent, employee or
25 representative of a principal, who fails to comply with the
26 recordkeeping requirements of this subdivision shall be
27 presumed to be aiding and abetting any vendor or
28 vendors who knowingly offer stolen property for sale in
29 a market place of the type described herein for the
30 purposes of action for damages arising under subdivision
31 5.

32 5. Any for/hire carrier operating under the jurisdiction
33 of the Public Utilities Commission who has been injured
34 by either a violation of this section or by the failure of any
35 person to comply with its provisions may bring an action

36 4. Any person who has been injured by a violation of
37 paragraph 1 of this section may bring an action for the
38 greater of the following:

39 (a) One thousand dollars (\$1,000), costs of suit, and
40 reasonable attorney's fees.

1 (b) Three times the amount of actual damages, if any,
2 sustained by the plaintiff, costs of suit and reasonable
3 attorney's fees.

4 When an action is brought for failure to comply with
5 the provisions of this section, plaintiff need only show the
6 failure by a preponderance of the evidence.

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EXHIBIT 4

AMENDED IN ASSEMBLY JULY 27, 1972

AMENDED IN SENATE JUNE 26, 1972

AMENDED IN SENATE MAY 30, 1972

SENATE BILL

No. 1068

Introduced by Senator Zenovich

March 15, 1972

An act to amend Section 496 of the Penal Code, relating to stolen property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as amended, Zenovich. Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for *three times the amount of actual damages, if any, sustained by plaintiff, costs of suit, and attorney's fees* ~~specified amount~~ against person committing such violation.

Vote—Majority; Appropriation—No;
Fiscal Committee—No.

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

1 SECTION 1. Section 496 of the Penal Code is amended
2 to read:
3 496. 1. Every person who buys or receives any
4 property which has been stolen or which has been
5 obtained in any manner constituting theft or extortion,
6 knowing the property to be so stolen or obtained, or who
7 conceals, sells, withholds or aids in concealing, selling, or
8 withholding any such property from the owner, knowing
9 the property to be so stolen or obtained, is punishable by
10 imprisonment in a state prison for not more than 10 years,

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1 or in a county jail for not more than one year; provided,
2 that where the district attorney or the grand jury
3 determines that such action would be in the interests of
4 justice, the district attorney or the grand jury, as the case
5 may be, may, if the value of the property does not exceed
6 two hundred dollars (\$200), specify in the accusatory
7 pleading that the offense shall be a misdemeanor,
8 punishable only by imprisonment in the county jail not
9 exceeding one year.

10 2. Every person whose principal business is dealing in
11 or collecting used or secondhand merchandise or
12 personal property, and every agent, employee or
13 representative of such person, who buys or receives any
14 property which has been stolen or obtained in any
15 manner constituting theft or extortion, under such
16 circumstances as should cause such person, agent,
17 employee or representative to make reasonable inquiry
18 to ascertain that the person from whom such property
19 was bought or received had the legal right to sell or
20 deliver it, without making such reasonable inquiry, shall
21 be presumed to have bought or received such property
22 knowing it to have been so stolen or obtained. This
23 presumption may, however, be rebutted by proof.

24 3. When in a prosecution under this section it shall
25 appear from the evidence that the defendant's principal
26 business was as set forth in the preceding paragraph, that
27 the defendant bought, received, or otherwise obtained,
28 or concealed, withheld or aided in concealing or
29 withholding from the owner, any property which had
30 been stolen or obtained in any manner constituting theft
31 or extortion, and that the defendant bought, received,
32 obtained, concealed or withheld such property under
33 such circumstances as should have caused him to make
34 reasonable inquiry to ascertain that the person from
35 whom he bought, received, or obtained such property
36 had the legal right to sell or deliver it to him, then the
37 burden shall be upon the defendant to show that before
38 so buying, receiving, or otherwise obtaining such
39 property, he made such reasonable inquiry to ascertain
40 that the person so selling or delivering the same to him

MJN_027

1 had the legal right to so sell or deliver it.

2 4. Any person who has been injured by a violation of
3 paragraph 1 of this section may bring an action for the
4 greater of the following:

5 ~~(a) One thousand dollars (\$1,000); costs of suit, and~~
6 ~~reasonable attorney's fees.~~

7 ~~(b) Three *three* times the amount of actual damages,~~
8 ~~if any, sustained by the plaintiff, costs of suit and~~
9 ~~reasonable attorney's fees.~~

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EXHIBIT 5

Volume 1

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1972

Constitution of 1879 as Amended

**Measures Submitted to Vote of Electors,
Special Election, June 6, 1972,
and General Election, November 7, 1972**

**General Laws, Amendments to the Codes, Resolutions,
and Constitutional Amendments passed by the
California Legislature at the**

1972 Regular Session



Compiled by
GEORGE H. MURPHY
Legislative Counsel

1A—2192

MJN_030

1972-963 Page 16 of 87

CHAPTER 963

An act to amend Section 496 of the Penal Code, relating to stolen property.

[Approved by Governor August 16, 1972 Filed with
Secretary of State August 16, 1972.]

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

SECTION 1. Section 496 of the Penal Code is amended to read:

496. 1. Every person who buys or receives any property which has been stolen or which 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 such property from the owner, knowing the property to be so stolen or obtained, is punishable by imprisonment in a state prison for not more than 10 years, or in a county jail for not more than one year; provided, that where the district attorney or the grand jury determines that such 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 two hundred dollars (\$200), specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in the county jail not exceeding one year.

2. Every person whose principal business is dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of such person, who buys or receives any property which has been stolen or obtained in any manner constituting theft or extortion, under such circumstances as should cause such person, agent, employee or representative to make reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to sell or deliver it, without making such reasonable inquiry, shall be presumed to have bought or received such property knowing it to have been so stolen or obtained. This presumption may, however, be rebutted by proof.

3. When in a prosecution under this section it shall appear from the evidence that the defendant's principal business was as set forth in the preceding paragraph, that the defendant bought, received, or otherwise obtained, or concealed, withheld or aided in concealing or withholding from the owner, any property which had been stolen or obtained in any manner constituting theft or extortion, and that the defendant bought, received, obtained, concealed or withheld such property under such circumstances as should have caused him to make reasonable inquiry to ascertain that the person from whom he bought, received, or obtained such property had the legal right to sell or deliver it to him, then the burden shall be upon the defendant to show that before so buying, receiving, or otherwise obtaining such property, he made such reasonable inquiry to ascertain that the

person so selling or delivering the same to him had the legal right to so sell or deliver it.

4. Any person who has been injured by a violation of paragraph 1 of this section 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.

CHAPTER 964

An act to amend Sections 1.5, 2.1, 2.5, 3.1, 3.5, 3.16, 3.25, 3.27, 6.55, and 7.11 of, and to add Section 1.9 to, the Fresno Metropolitan Transit District Act of 1961 (Chapter 1932 of the Statutes of 1961), relating to transit districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1972. Filed with Secretary of State August 16, 1972.]

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

SECTION 1. Section 1.5 of the Fresno Metropolitan Transit District Act of 1961 (Chapter 1932 of the Statutes of 1961) is amended to read:

Sec. 1.5. "Voter" means any elector who is registered to vote under the provisions of the Elections Code and who resides within the territory proposed for formation of the district or within the territory comprising the district after its formation.

SEC. 2. Section 1.9 is added to the Fresno Metropolitan Transit District Act of 1961 (Chapter 1932 of the Statutes of 1961), to read:

Sec. 1.9. "Percent of the total vote cast," when used with reference to the requirements of any petition or nomination paper, means the percent of the total vote cast, exclusive of absent voter ballots, within the proposed district, the district, the city, or the territory, as the case may be, at the last general state election.

SEC. 3. Section 2.1 of the Fresno Metropolitan Transit District Act of 1961 (Chapter 1932 of the Statutes of 1961) is amended to read:

Sec. 2.1. The City of Fresno, together with unincorporated territory, may organize and incorporate as the Fresno Metropolitan Transit District. The City of Clovis shall be included in the proposed district if so authorized by the legislative body of the City of Clovis.

SEC. 4. Section 2.5 of the Fresno Metropolitan Transit District Act of 1961 (Chapter 1932 of the Statutes of 1961) is amended to read:

Sec. 2.5. The legislative body of the City of Fresno may pass a resolution declaring that in its opinion public interest or necessity demands the creation and maintenance of the Fresno Metropolitan Transit District. The City of Clovis shall be included in the proposed district if the legislative body of the City of Clovis passes a resolution declaring that in its opinion public interest or necessity demands the

DECLARATION OF LISA HAMPTON

I, Lisa Hampton, declare:

1. I am the principal at LRI History, LLC, a company engaged in researching the history and intent of legislative and regulatory enactments. I have over 17 years of experience in research and analysis of legislative intent. In cooperation with persons working under my supervision and at the request of my client, Robert Cooper, I undertook to research the enactment of the civil remedies in Penal Code section 496 in 1972 (referred to here as the “project”).

2. At all times, all persons working on this project operated under instructions to locate all documents available pertaining to the 1972 amendments to section 496. This research was compiled between August 7, 2020 and September 21, 2020.

3. Due to the pandemic, researchers and members of the public are not allowed to personally conduct searches at the California State Library and the California State Archives. Accordingly, I submitted requests to these entities to obtain the legislative history for this project.

4. All documents relevant to this project that were sent to me by California State Library and the California State Archives are attached to this declaration as a single exhibit (Exhibit A).

5. After receiving these materials, I created the table of contents attached at the beginning of Exhibit A. This table segregates the materials received and identifies the source of each category of materials.

6. All documents attached to this declaration as Exhibit A are true and correct copies of the documents obtained from the official, public sources in California (as identified in our table of contents) unless another source is indicated. However, in some cases, pages may have been reduced in size to fit an 8 ½” x 11” sized paper. For readability purposes, pages may have been enlarged or cleansed of black marks or spots. Page identification information has also been added at the bottom right-hand corner of each page.

7. Finally, I added a few inserter tabs on our letterhead identifying the particular category of documents (e.g., “General Enactment History” tab on page 1 of 87).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Sacramento, California on October 29, 2020

By: /s/ Lisa Hampton
Lisa Hampton

EXHIBIT A



LRI History LLC

intent@lrihistory.com
www.lrihistory.com
(916) 442.7660

General Enactment History

LRI History LLC hereby certifies that the accompanying record/s is/are true and correct copies of the original/s obtained from one or more official, public sources in California unless another source is indicated, with the following exceptions : In some cases, pages may have been reduced in size to fit an 8 ½" x 11" sized paper. Or, for readability purposes, pages may have been enlarged or cleansed of black marks or spots. Lastly, for ease of reference, paging and relevant identification have been inserted.

Introduced by Senator Zenovich

March 15, 1972

An act to amend Section 496 of the Penal Code, relating to stolen property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as introduced, Zenovich. Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for specified amount against person committing such violation.

Vote—Majority; Appropriation—No; Fiscal Committee—No.

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

1 SECTION 1. Section 496 of the Penal Code is amended
2 to read:
3 496. 1. Every person who buys or receives any
4 property which has been stolen or which has been
5 obtained in any manner constituting theft or extortion,
6 knowing the property to be so stolen or obtained, or who
7 conceals, withholds or aids in concealing or withholding
8 any such property from the owner, knowing the property
9 to be so stolen or obtained, is punishable by
10 imprisonment in a state prison for not more than 10 years,
11 or in a county jail for not more than one year; provided,
12 that where the district attorney or the grand jury
13 determines that such action would be in the interests of
14 justice, the district attorney or the grand jury, as the case
15 may be, may, if the value of the property does not exceed
16 two hundred dollars (\$200), specify in the accusatory
17 pleading that the offense shall be a misdemeanor,

MJN_037

1 punishable only by imprisonment in the county jail not
2 exceeding one year.

3 2. Every person whose principal business is dealing in
4 or collecting used or secondhand merchandise or
5 personal property, and every agent, employee or
6 representative of such person, who buys or receives any
7 property which has been stolen or obtained in any
8 manner constituting theft or extortion, under such
9 circumstances as should cause such person, agent,
10 employee or representative to make reasonable inquiry
11 to ascertain that the person from whom such property
12 was bought or received had the legal right to sell or
13 deliver it, without making such reasonable inquiry, shall
14 be presumed to have bought or received such property
15 knowing it to have been so stolen or obtained. This
16 presumption may, however, be rebutted by proof.

17 3. When in a prosecution under this section it shall
18 appear from the evidence that the defendant's principal
19 business was as set forth in the preceding paragraph, that
20 the defendant bought, received, or otherwise obtained,
21 or concealed, withheld or aided in concealing or
22 withholding from the owner, any property which had
23 been stolen or obtained in any manner constituting theft
24 or extortion, and that the defendant bought, received,
25 obtained, concealed or withheld such property under
26 such circumstances as should have caused him to make
27 reasonable inquiry to ascertain that the person from
28 whom he bought, received, or obtained such property
29 had the legal right to sell or deliver it to him, then the
30 burden shall be upon the defendant to show that before
31 so buying, receiving, or otherwise obtaining such
32 property, he made such reasonable inquiry to ascertain
33 that the person so selling or delivering the same to him
34 had the legal right to so sell or deliver it.

35 4. *Any person who has been injured by a violation of*
36 *this section may bring an action against the person who*
37 *committed the violation for the greater of the following*
38 *amounts:*

39 (a) _____ dollars (\$_____), costs of suit, and
40 reasonable attorney's fees.

- 1 *(b) Three times the amount of actual damages, if any,*
- 2 *sustained by the plaintiff, costs of suit and reasonable*
- 3 *attorney's fees.*

O

Introduced by Senator Zenovich

March 15, 1972

An act to amend Section 496 of the Penal Code, relating to stolen property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as amended, Zenovich. Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for specified amount against person committing such violation.

Specifies records required to be maintained by persons furnishing space in market place to vendors for sale of personal property, and provides that failure to so maintain may create liability in connection with civil action referred to above.

Vote—Majority; Appropriation—No;
Fiscal Committee—No.

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

- 1 SECTION 1. Section 496 of the Penal Code is amended
2 to read:
3 496. 1. Every person who buys or receives any
4 property which has been stolen or which has been
5 obtained in any manner constituting theft or extortion,
6 knowing the property to be so stolen or obtained, or who
7 conceals, withholds or aids in concealing or withholding
8 any such property from the owner, knowing the property
9 to be so stolen or obtained, is punishable by
10 imprisonment in a state prison for not more than 10 years,

1 or in a county jail for not more than one year; provided,
2 that where the district attorney or the grand jury
3 determines that such action would be in the interests of
4 justice, the district attorney or the grand jury, as the case
5 may be, may, if the value of the property does not exceed
6 two hundred dollars (\$200), specify in the accusatory
7 pleading that the offense shall be a misdemeanor,
8 punishable only by imprisonment in the county jail not
9 exceeding one year.

10 2. Every person whose principal business is dealing in
11 or collecting used or secondhand merchandise or
12 personal property, and every agent, employee or
13 representative of such person, who buys or receives any
14 property which has been stolen or obtained in any
15 manner constituting theft or extortion, under such
16 circumstances as should cause such person, agent,
17 employee or representative to make reasonable inquiry
18 to ascertain that the person from whom such property
19 was bought or received had the legal right to sell or
20 deliver it, without making such reasonable inquiry, shall
21 be presumed to have bought or received such property
22 knowing it to have been so stolen or obtained. This
23 presumption may, however, be rebutted by proof.

24 3. When in a prosecution under this section it shall
25 appear from the evidence that the defendant's principal
26 business was as set forth in the preceding paragraph, that
27 the defendant bought, received, or otherwise obtained,
28 or concealed, withheld or aided in concealing or
29 withholding from the owner, any property which had
30 been stolen or obtained in any manner constituting theft
31 or extortion, and that the defendant bought, received,
32 obtained, concealed or withheld such property under
33 such circumstances as should have caused him to make
34 reasonable inquiry to ascertain that the person from
35 whom he bought, received, or obtained such property
36 had the legal right to sell or deliver it to him, then the
37 burden shall be upon the defendant to show that before
38 so buying, receiving, or otherwise obtaining such
39 property, he made such reasonable inquiry to ascertain
40 that the person so selling or delivering the same to him

1 had the legal right to so sell or deliver it.

2 ~~4. Any person who has been injured by a violation of~~
3 ~~this section may bring an action against the person who~~
4 ~~committed the violation for the greater of the following~~
5 ~~amounts:~~

6 ~~(a) dollars (\$), costs of suit, and~~
7 ~~reasonable attorney's fees.~~

8 ~~(b) Three times the amount of actual damages, if any,~~
9 ~~sustained by the plaintiff, costs of suit and reasonable~~
10 ~~attorney's fees.~~

11 *4. Any person, including an agent, employee or*
12 *representative of a principal, who furnishes temporary*
13 *space in a market place open to the public, whether or*
14 *not members of the public are required to pay a fee or to*
15 *acquire a membership in or to join an organization to be*
16 *entitled to admission to such market place, to a vendor or*
17 *vendors for the display of personal property for sale in*
18 *such market place shall maintain on a daily basis a*
19 *permanent record of:*

20 *(a) The name and address of each vendor;*

21 *(b) A description of the property offered for sale in the*
22 *market place by each vendor (including the name of the*
23 *manufacturer and the model name or number if such*
24 *property is normally sold at retail by such designations*
25 *and the serial number if such property is normally*
26 *identified by or given a serial number); and*

27 *(c) The name and address of the person from whom*
28 *the vendor acquired any property offered for sale in the*
29 *market place, unless the property is used and has been*
30 *owned by the vendor for two or more years prior to the*
31 *date first offered for sale in the market place.*

32 *Any person, including an agent, employee or*
33 *representative of a principal, who fails to comply with the*
34 *recordkeeping requirements of this subdivision shall be*
35 *presumed to be aiding and abetting any vendor or*
36 *vendors who knowingly offer stolen property for sale in*
37 *a market place of the type described herein for the*
38 *purposes of action for damages arising under subdivision*

39 *5.*

40 *5. Any for-hire carrier operating under the jurisdiction*

1 *of the Public Utilities Commission who has been injured*
2 *by either a violation of this section or by the failure of any*
3 *person to comply with its provisions may bring an action*
4 *for the greater of the following:*

5 *(a) One thousand dollars (\$1,000), costs of suit, and*
6 *reasonable attorney's fees.*

7 *(b) Three times the amount of actual damages, if any,*
8 *sustained by the plaintiff, costs of suit and reasonable*
9 *attorney's fees.*

10 *When an action is brought for failure to comply with*
11 *the provisions of this section, plaintiff need only show the*
12 *failure by a preponderance of the evidence.*

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AMENDED IN SENATE JUNE 26, 1972

AMENDED IN SENATE MAY 30, 1972

SENATE BILL

No. 1068

Introduced by Senator Zenovich

March 15, 1972

An act to amend Section 496 of the Penal Code, relating to stolen property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as amended, Zenovich. Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for specified amount against person committing such violation.

~~Specifies records required to be maintained by persons furnishing space in market place to vendors for sale of personal property, and provides that failure to so maintain may create liability in connection with civil action referred to above.~~

Vote—Majority; Appropriation—No;
Fiscal Committee—No.

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

1 SECTION 1. Section 496 of the Penal Code is amended
2 to read:

3 496. 1. Every person who buys or receives any
4 property which has been stolen or which has been
5 obtained in any manner constituting theft or extortion,
6 knowing the property to be so stolen or obtained, or who
7 conceals, *sells*, withholds or aids in concealing, *selling*, or
8 withholding any such property from the owner, knowing
9 the property to be so stolen or obtained, is punishable by

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1 imprisonment in a state prison for not more than 10 years,
2 or in a county jail for not more than one year; provided,
3 that where the district attorney or the grand jury
4 determines that such action would be in the interests of
5 justice, the district attorney or the grand jury, as the case
6 may be, may, if the value of the property does not exceed
7 two hundred dollars (\$200), specify in the accusatory
8 pleading that the offense shall be a misdemeanor,
9 punishable only by imprisonment in the county jail not
10 exceeding one year.

11 2. Every person whose principal business is dealing in
12 or collecting used or secondhand merchandise or
13 personal property, and every agent, employee or
14 representative of such person, who buys or receives any
15 property which has been stolen or obtained in any
16 manner constituting theft or extortion, under such
17 circumstances as should cause such person, agent,
18 employee or representative to make reasonable inquiry
19 to ascertain that the person from whom such property
20 was bought or received had the legal right to sell or
21 deliver it, without making such reasonable inquiry, shall
22 be presumed to have bought or received such property
23 knowing it to have been so stolen or obtained. This
24 presumption may, however, be rebutted by proof.

25 3. When in a prosecution under this section it shall
26 appear from the evidence that the defendant's principal
27 business was as set forth in the preceding paragraph, that
28 the defendant bought, received, or otherwise obtained,
29 or concealed, withheld or aided in concealing or
30 withholding from the owner, any property which had
31 been stolen or obtained in any manner constituting theft
32 or extortion, and that the defendant bought, received,
33 obtained, concealed or withheld such property under
34 such circumstances as should have caused him to make
35 reasonable inquiry to ascertain that the person from
36 whom he bought, received, or obtained such property
37 had the legal right to sell or deliver it to him, then the
38 burden shall be upon the defendant to show that before
39 so buying, receiving, or otherwise obtaining such
40 property, he made such reasonable inquiry to ascertain

1 that the person so selling or delivering the same to him
2 had the legal right to so sell or deliver it.

3 4. Any person, including an agent, employee or
4 representative of a principal, who furnishes temporary
5 space in a market place open to the public, whether or
6 not members of the public are required to pay a fee or to
7 acquire a membership in or to join an organization to be
8 entitled to admission to such market place; to a vendor or
9 vendors for the display of personal property for sale in
10 such market place shall maintain on a daily basis a
11 permanent record of:

12 (a) The name and address of each vendor;

13 (b) A description of the property offered for sale in the
14 market place by each vendor (including the name of the
15 manufacturer and the model name or number if such
16 property is normally sold at retail by such designations
17 and the serial number if such property is normally
18 identified by or given a serial number); and

19 (c) The name and address of the person from whom
20 the vendor acquired any property offered for sale in the
21 market place; unless the property is used and has been
22 owned by the vendor for two or more years prior to the
23 date first offered for sale in the market place.

24 Any person, including an agent, employee or
25 representative of a principal, who fails to comply with the
26 recordkeeping requirements of this subdivision shall be
27 presumed to be aiding and abetting any vendor or
28 vendors who knowingly offer stolen property for sale in
29 a market place of the type described herein for the
30 purposes of action for damages arising under subdivision
31 5.

32 5. Any for/hire carrier operating under the jurisdiction
33 of the Public Utilities Commission who has been injured
34 by either a violation of this section or by the failure of any
35 person to comply with its provisions may bring an action

36 4. Any person who has been injured by a violation of
37 paragraph 1 of this section may bring an action for the
38 greater of the following:

39 (a) One thousand dollars (\$1,000), costs of suit, and
40 reasonable attorney's fees.

1 (b) Three times the amount of actual damages, if any,
2 sustained by the plaintiff, costs of suit and reasonable
3 attorney's fees.

4 When an action is brought for failure to comply with
5 the provisions of this section, plaintiff need only show the
6 failure by a preponderance of the evidence.

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AMENDED IN ASSEMBLY JULY 27, 1972

AMENDED IN SENATE JUNE 26, 1972

AMENDED IN SENATE MAY 30, 1972

SENATE BILL

No. 1068

Introduced by Senator Zenovich

March 15, 1972

An act to amend Section 496 of the Penal Code, relating to stolen property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as amended, Zenovich. Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for *three times the amount of actual damages, if any, sustained by plaintiff, costs of suit, and attorney's fees* ~~specified amount~~ against person committing such violation.

Vote—Majority; Appropriation—No;
Fiscal Committee—No.

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

1 SECTION 1. Section 496 of the Penal Code is amended
2 to read:
3 496. 1. Every person who buys or receives any
4 property which has been stolen or which has been
5 obtained in any manner constituting theft or extortion,
6 knowing the property to be so stolen or obtained, or who
7 conceals, sells, withholds or aids in concealing, selling, or
8 withholding any such property from the owner, knowing
9 the property to be so stolen or obtained, is punishable by
10 imprisonment in a state prison for not more than 10 years,

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1 or in a county jail for not more than one year; provided,
2 that where the district attorney or the grand jury
3 determines that such action would be in the interests of
4 justice, the district attorney or the grand jury, as the case
5 may be, may, if the value of the property does not exceed
6 two hundred dollars (\$200), specify in the accusatory
7 pleading that the offense shall be a misdemeanor,
8 punishable only by imprisonment in the county jail not
9 exceeding one year.

10 2. Every person whose principal business is dealing in
11 or collecting used or secondhand merchandise or
12 personal property, and every agent, employee or
13 representative of such person, who buys or receives any
14 property which has been stolen or obtained in any
15 manner constituting theft or extortion, under such
16 circumstances as should cause such person, agent,
17 employee or representative to make reasonable inquiry
18 to ascertain that the person from whom such property
19 was bought or received had the legal right to sell or
20 deliver it, without making such reasonable inquiry, shall
21 be presumed to have bought or received such property
22 knowing it to have been so stolen or obtained. This
23 presumption may, however, be rebutted by proof.

24 3. When in a prosecution under this section it shall
25 appear from the evidence that the defendant's principal
26 business was as set forth in the preceding paragraph, that
27 the defendant bought, received, or otherwise obtained,
28 or concealed, withheld or aided in concealing or
29 withholding from the owner, any property which had
30 been stolen or obtained in any manner constituting theft
31 or extortion, and that the defendant bought, received,
32 obtained, concealed or withheld such property under
33 such circumstances as should have caused him to make
34 reasonable inquiry to ascertain that the person from
35 whom he bought, received, or obtained such property
36 had the legal right to sell or deliver it to him, then the
37 burden shall be upon the defendant to show that before
38 so buying, receiving, or otherwise obtaining such
39 property, he made such reasonable inquiry to ascertain
40 that the person so selling or delivering the same to him

1 had the legal right to so sell or deliver it.

2 4. Any person who has been injured by a violation of
3 paragraph 1 of this section may bring an action for the
4 greater of the following:

5 ~~(a) One thousand dollars (\$1,000); costs of suit, and~~
6 ~~reasonable attorney's fees.~~

7 ~~(b) Three *three* times the amount of actual damages,~~
8 ~~if any, sustained by the plaintiff, costs of suit and~~
9 ~~reasonable attorney's fees.~~

O

Volume 1

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1972

Constitution of 1879 as Amended

**Measures Submitted to Vote of Electors,
Special Election, June 6, 1972,
and General Election, November 7, 1972**

**General Laws, Amendments to the Codes, Resolutions,
and Constitutional Amendments passed by the
California Legislature at the**

1972 Regular Session



Compiled by
GEORGE H. MURPHY
Legislative Counsel

1A—2192

MJN_051

1972-963 Page 16 of 87

CHAPTER 963

An act to amend Section 496 of the Penal Code, relating to stolen property.

[Approved by Governor August 16, 1972 Filed with
Secretary of State August 16, 1972.]

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

SECTION 1. Section 496 of the Penal Code is amended to read:

496. 1. Every person who buys or receives any property which has been stolen or which 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 such property from the owner, knowing the property to be so stolen or obtained, is punishable by imprisonment in a state prison for not more than 10 years, or in a county jail for not more than one year; provided, that where the district attorney or the grand jury determines that such 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 two hundred dollars (\$200), specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in the county jail not exceeding one year.

2. Every person whose principal business is dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of such person, who buys or receives any property which has been stolen or obtained in any manner constituting theft or extortion, under such circumstances as should cause such person, agent, employee or representative to make reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to sell or deliver it, without making such reasonable inquiry, shall be presumed to have bought or received such property knowing it to have been so stolen or obtained. This presumption may, however, be rebutted by proof.

3. When in a prosecution under this section it shall appear from the evidence that the defendant's principal business was as set forth in the preceding paragraph, that the defendant bought, received, or otherwise obtained, or concealed, withheld or aided in concealing or withholding from the owner, any property which had been stolen or obtained in any manner constituting theft or extortion, and that the defendant bought, received, obtained, concealed or withheld such property under such circumstances as should have caused him to make reasonable inquiry to ascertain that the person from whom he bought, received, or obtained such property had the legal right to sell or deliver it to him, then the burden shall be upon the defendant to show that before so buying, receiving, or otherwise obtaining such property, he made such reasonable inquiry to ascertain that the

person so selling or delivering the same to him had the legal right to so sell or deliver it.

4. Any person who has been injured by a violation of paragraph 1 of this section 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.

CHAPTER 964

An act to amend Sections 1.5, 2.1, 2.5, 3.1, 3.5, 3.16, 3.25, 3.27, 6.55, and 7.11 of, and to add Section 1.9 to, the Fresno Metropolitan Transit District Act of 1961 (Chapter 1932 of the Statutes of 1961), relating to transit districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1972. Filed with Secretary of State August 16, 1972.]

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

SECTION 1. Section 1.5 of the Fresno Metropolitan Transit District Act of 1961 (Chapter 1932 of the Statutes of 1961) is amended to read:

Sec. 1.5. "Voter" means any elector who is registered to vote under the provisions of the Elections Code and who resides within the territory proposed for formation of the district or within the territory comprising the district after its formation.

SEC. 2. Section 1.9 is added to the Fresno Metropolitan Transit District Act of 1961 (Chapter 1932 of the Statutes of 1961), to read:

Sec. 1.9. "Percent of the total vote cast," when used with reference to the requirements of any petition or nomination paper, means the percent of the total vote cast, exclusive of absent voter ballots, within the proposed district, the district, the city, or the territory, as the case may be, at the last general state election.

SEC. 3. Section 2.1 of the Fresno Metropolitan Transit District Act of 1961 (Chapter 1932 of the Statutes of 1961) is amended to read:

Sec. 2.1. The City of Fresno, together with unincorporated territory, may organize and incorporate as the Fresno Metropolitan Transit District. The City of Clovis shall be included in the proposed district if so authorized by the legislative body of the City of Clovis.

SEC. 4. Section 2.5 of the Fresno Metropolitan Transit District Act of 1961 (Chapter 1932 of the Statutes of 1961) is amended to read:

Sec. 2.5. The legislative body of the City of Fresno may pass a resolution declaring that in its opinion public interest or necessity demands the creation and maintenance of the Fresno Metropolitan Transit District. The City of Clovis shall be included in the proposed district if the legislative body of the City of Clovis passes a resolution declaring that in its opinion public interest or necessity demands the

CALIFORNIA LEGISLATURE

AT SACRAMENTO

1972 REGULAR SESSION

SENATE FINAL HISTORY

SHOWING ACTION TAKEN IN THIS SESSION ON ALL SENATE BILLS,
CONSTITUTIONAL AMENDMENTS, CONCURRENT, JOINT
RESOLUTIONS AND SENATE RESOLUTIONS

CONVENED JANUARY 3, 1972

ADJOURNED SINE DIE JANUARY 5, 1973

DAYS IN SESSION 148
CALENDAR DAYS 369

Bill Signing Period Expires 12 O'clock Midnight December 31, 1972

Laws Become Effective March 7, 1973

Last Day for Filing Referendum March 6, 1973

LT GOVERNOR ED REINECKE
President of the Senate

SENATOR JAMES R. MILLS
President pro Tempore

Compiled Under the Direction of

DARRYL R. WHITE
Secretary of the Senate

by
DAVID H. KNEALE
History Clerk

S.B. No. 1068—Zenovich.

An act to amend Section 496 of the Penal Code, relating to stolen property

Mar 15—Read first time
 April 10—To Com on JUD
 May 30—From committee with author's amendments Read second time
 Amended Re-referred to committee
 June 26—From committee with author's amendments Read second time
 Amended Re-referred to committee
 June 28—From committee Do pass
 June 29—Read second time To third reading
 July 4—Read third time Passed To Assembly (Ayes 26 Noes 0)
 July 5—In Assembly Read first time To Com on CRIMJ
 July 27—From committee Do pass as amended Read second time Amended
 To third reading
 July 28—Read third time Passed To Senate (Ayes 56 Noes 0)
 July 28—In Senate To unfinished business
 July 31—Senate concurs in Assembly amendment To enrollment (Ayes 34
 Noes 0)
 Aug 11—Enrolled To Governor at 11 a m
 Aug 16—Approved by Governor Chapter 963

S B No 1069—Zenovich.

An act to amend Sections 6203 and 6204 of, and to add Section 6208 to, the Labor Code, relating to labor

Mar 15—Read first time
 April 10—To Com on I R
 May 18—From committee Do pass, but first be re-referred to Com on FIN
 Re-referred to Com on FIN
 June 30—From committee Do pass To Consent Calendar
 July 3—Read second time To Consent Calendar
 July 5—Read third time Passed To Assembly (Ayes 33 Noes 0)
 July 6—In Assembly Read first time To Com on FIN & INS
 July 20—From committee Do pass, but first be re-referred to Com on W &
 M, with recommendation To Consent Calendar Re-referred to
 Com on W & M
 July 26—From committee Do pass To Consent Calendar Read second time
 To Consent Calendar
 July 27—Read third time Passed. To Senate (Ayes 75 Noes 0)
 July 28—In Senate To enrollment
 Aug 2—Enrolled To Governor at 3 p m
 Aug 10—Approved by Governor Chapter 715

S.B. No 1070—Zenovich

An act to amend Sections 19578 and 19579 of the Welfare and Institutions Code, relating to rehabilitation

Mar 15—Read first time
 April 10—To Com on H & W
 May 18—From committee with author's amendments Read second time
 Amended Re-referred to committee
 Dec 1—From committee without further action

S.B. No. 1071—Zenovich

An act to add Section 690 7 to, and to repeal Section 690 7 of, the Code of Civil Procedure, relating to execution of judgment

Mar 15—Read first time
 April 10—To Com on JUD
 Dec 1—From committee without further action

SUMMARY DIGEST

of

Statutes Enacted and Resolutions Adopted

Including Proposed Constitutional Amendments

and

1969–1972 Statutory Record



CALIFORNIA LEGISLATURE

1972 Regular Session

DARRYL R. WHITE
Secretary of the Senate

JAMES D. DRISCOLL
Chief Clerk of the Assembly

Compiled by
GEORGE H. MURPHY
Legislative Counsel

MJN_056

1972-963 Page 21 of 87

Ch. 956 (SB 493) Whetmore. Superior court

Increases number of superior court judges from 29 to 31 in Orange County.

Ch. 957 (SB 605) Burgener. Department of Industrial Relations.

Transfers Department of Industrial Relations from the Human Relations Agency to the Agriculture and Services Agency.

Makes additional changes in Secs. 12803 and 12804, Government Code, proposed by Chapter 333, Statutes of 1972, to be operative only if Chapter 333 and this bill both become operative

Ch. 958 (SB 712) Grunsky Point Lobos State Reserve

Appropriates \$2,000,000 from the Bagley Conservation Fund to the Department of Parks and Recreation for land acquisition for Point Lobos State Reserve Requires such acquisition to be subject to the Property Acquisition Law.

Ch. 959 (SB 922) Lagomarsino. State park system

Amends and supplements the Budget Act of 1972 to appropriate \$33,000, payable from the State Beach, Park, Recreational, and Historical Facilities Fund, for land acquisition at El Presidio de Santa Barbara State Historic Park

To take effect immediately, urgency statute

Ch. 960 (SB 946) Moscone. State Teachers' Retirement System.

Authorizes credentialed members of San Francisco City and County Employees' Retirement System on June 30, 1972, who elect coverage for prior and future service in San Francisco under State Teachers' Retirement System, to receive concurrent coverage for other certificated service, where permitted by the city and county charter, but limits such authorization to service other than credited service, as defined

Prospectively increases, as of July 1, 1972, service retirement allowance of persons receiving such allowance from State Teachers' Retirement System on June 30, 1972, in amount of one-half of any reduction of such allowance attributable to social security coverage of such person under local system in which such person was a member Requires San Francisco City and County Employees' Retirement System to transfer present value of such additional allowance, as of June 30, 1972, to State Teachers' Retirement System

Ch 961 (SB 987) Roberti Tests limitations.

Prohibits giving any group intelligence quotient test, except intelligence tests administered on an individual basis for purposes of placement in special education programs, to any public elementary or secondary pupil who has come to the United States for the first time from a foreign country in which English is not the primary language until such student has resided in the United States for two years

Not to become operative if 1972 AB 483 is enacted into law.

Ch 962 (SB 1065) Holmdahl Unincorporated associations

Provides that interest of members of unincorporated association is personal property Reorganizes provisions of Title 3 (commencing with Section 21000) of Corporations Code relating to unincorporated associations.

Ch. 963 (SB 1068) Zenovich Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for three times the amount of actual damages, if any, sustained by plaintiff, costs of suit, and attorney's fees against person committing such violation

Ch 964 (SB 1072) Zenovich Fresno Metropolitan Transit District

Redefines "voter," for purposes of the Fresno Metropolitan Transit District Act, to be an elector who also resides within the Fresno Metropolitan Transit District or within the proposed territory thereof.

Defines "percent of the total vote cast."

Authorizes the City of Clovis to join the district if its legislative body authorizes such action.



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Documents Generated During Senate Deliberations

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SB 1068 (Zenovich)
As amended May 30
Penal Code

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STOLEN PROPERTY
-AIDING AND ABETTING THE SALE-

HISTORY

Source: Calif. Trucking Ass'n

Prior Legislation: None

Support: Unknown

Opposition: No Known

DIGEST

Provides that any person, as defined, who furnishes temporary space, in a market place open to the public, to a vendor for the display of personal property for sale in such market place, must maintain a permanent daily record of:

- (1) The name and address of each vendor,
- (2) A description of the property offered for sale,
- (3) The name and address of the person from whom the property was acquired unless the property if used and has been owned by the vendor for a period of two years.

Provides that any person failing to comply with the above shall be presumed to be aiding and abetting a vendor, who knowingly offers stolen property for sale, in a civil action for damages.

Permits a for-hire carrier, operating under the jurisdiction of the Public Utilities Commission, injured by a violation of the above to bring an action for the greater of:

(More)

MJN_059

SB 1068 (Zenovich)
Page Two

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- (1) \$1,000, costs, and reasonable attorney's fees, or
- (2) Triple damages, costs, and reasonable attorney's fees.

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Provides in an action under this act the plaintiff need only show the defendant's failure to comply by a preponderance of the evidence.

PURPOSE

Provide for-hire carriers with a civil action for damages against operators of "flea markets" who fail to maintain required records of persons selling property at their facilities, when such failure results in the sale of property which has been stolen from trucks that are operated by the carrier.

COMMENT

1. It is contended that the provisions of this bill are necessary to eliminate a commonly used market for disposing of property which has been stolen from cargo carriers.
2. The bill applies to "for-hire" carriers operating under the jurisdiction of the Public Utilities Commission. The term is not defined in California Law. Perhaps the reference should be to "common carriers" as defined in Section 211 of the Public Utilities Code.
3. The bill establishes a purely civil remedy for a vendor's failure to comply with the provisions of the act. The provisions should therefore be removed from the Penal Code and placed in either the Civil or Public Utilities Code.

MJN_060

SB 1068 (Zenovich)
As amended June 26
Penal Code

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STOLEN PROPERTY
-AIDING AND ABETTING THE SALE-

HISTORY

Source: Calif. Trucking Ass'n.

Prior Legislation: None

Support: Unknown

Opposition: No Known

DIGEST

Makes it a felony/misdemeanor for any person to sell or aid in the sale of property which he knows has been stolen or which he knows was obtained by extortion (para. (1), Sec. 496, Pen. C.).

Permits any person who is injured by a person who (1) buys or receives, (2) conceals or aids in the concealment, (3) sells or aids in the sale, or (4) withholds or aids in the withholding, of stolen property knowing the property to be stolen, to bring an action for the greater of:

- (1) \$1,000, costs, and reasonable attorney's fees, or
- (2) Triple damages, costs, and reasonable attorney's fees.

PURPOSE

Make it a felony/misdemeanor to knowingly sell or aid in the sale of stolen property.

Establish a civil remedy for persons who have been injured by another's purchase, concealment, sale, or withholding of property where such person knows the property has been stolen.

COMMENT

1. Existing law makes it a felony/misdemeanor to knowingly purchase, receive, conceal, or withhold stolen property. No criminal sanction applies to persons who knowingly sell property which they know has been stolen or extorted. The bill provides felony/misdemeanor sanctions for this latter class of persons.
2. It is contended that the criminal and civil sanctions created by this bill are necessary to eliminate markets through which stolen property is sold. It is felt that elimination of these markets will substantially reduce the incentive to hijack cargoes from common carriers.



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ASSEMBLY COMMITTEE ON CRIMINAL JUSTICE

Bill Analysis

Work Sheet

RE: Bill No. _____

SB 1068 - Gonzalez

Please complete this form and return it to the Assembly Committee on Criminal Justice as soon as possible.

1. Origin of the bill:

(a.) What is the source of the bill? (What person, organization or governmental entity, if any, requested introduction?)

California Trucking Association

(b.) Has a similar bill been before either this or a previous session of the Legislature? If so, please identify the session, bill number and disposition of the bill.

(c.) Has there been an interim committee report on the bill? If so, please identify the report.

2. Problem or deficiency in the present law which the bill seeks to remedy:

(See Attached Statement)

3. Please attach copies of any background material in explanation of the bill, or state where such material is available for reference by the committee staff.

4. Hearing:

(a.) Approximate amount of time necessary for hearing.

(b.) Names of witnesses to testify at the hearing.

Mr. William T. Meinhold

(c.) Preference for date of hearing. As soon as possible.

STATEMENT - SENATE BILL 1068 (1972)

The purpose of this Bill with amendments is to take the profit out of cargo thievery by making persons who steal, fence, or receive stolen property, civilly liable in damages for their acts to for-hire carriers from whom the property was stolen.

The Bill provides such carriers can sue for \$1,000 or three times the amount of actual damages, whichever is higher. Punitive damages are provided to afford carriers who pay the brunt of losses for cargo theft an opportunity to recover losses and costs and at the same time tighten up the shady market area where thieves sell their stolen goods.

Certainly, if a thief does not have a buyer to purchase or "fences" for resale his stolen or "hot" cargo, then his market will dry up.

A recent tort action in Georgia is one example that may aid in discouraging the theft of goods in transit from for-hire carriers. In that case a judgment was entered under a Georgia State law for the value of merchandise stolen from a commercial trucking firm and punitive damages assessed against those who participated in the theft and the owner of a company who purchased the stolen goods.

Briefly, the facts were: The thieves stole \$26,000 worth of wire fencing from a motor carrier, contacted a fence, who by a middle-of-the-night phone call, sold the fencing to the owner of a retail building supply for \$2,600. Subsequently, officers solved the case recovering some of the wire. The two thieves and the fence were tried and found guilty. The final buyer was not brought to trial on criminal charges because of a decision that proving he had knowledge of the theft at the time of his purchase was too difficult to secure a criminal verdict. Under a suit by the plaintiff trucking company, the evidence did support a judgment of actual damages of \$11,877.12 and \$4,375 punitive damages against each of the four defendants, the two thieves, the fence and the buyer.

The fence and the buyer defended the civil action but did not appeal the judgment. Had it not been for the Georgia statute the ultimate purchaser of the stolen goods would have gone untouched.

The number of times a comparable fact pattern has existed where a criminal action may be successfully prosecuted against all

but the final purchaser is well known in the trucking industry.

The Bill places a duty on persons furnishing temporary space in a market place open to the public to keep a record of the name and address of each tenant vendor, a description of the property offered for sale and the name and address of the person from whom the tenant vendor acquired the property offered for sale.

The goal of this provision is to include vacant lot sales, etc. at which stolen goods are often sold and which cannot be effectively policed without the information. Just the requirement to keep these records will discourage these places as fences to sell stolen goods.

RBL:dw

BILL DIGEST

ASSEMBLY COMMITTEE ON
CRIMINAL JUSTICE

Bill: SB 1068

Hearing Date: 7/25/72

AUTHOR: Zenovich

SUBJECT: Receiving Stolen Property-Civil Damages

BILL DESCRIPTION:

Under existing law, anyone who buys or receives, conceals, sells, or withholds property which has been stolen, knowing the property to have been stolen is guilty of receiving stolen property.

This bill provides that anyone who have been injured by such an offense can bring a civil action for either \$1,000 of three times actual damages, whichever is greater.

SUPPORT:

California Trucking Association

COMMENT:

Under existing law the crime of receiving stolen property is often used in lieu of a theft or burglary prosecution. Sometimes it is used because the district attorney cannot prove the major offense, but can prove that the defendant possessed the property subsequent to the actual theft or burglary. More often, however, it is used as a plea bargaining device to avoid the necessity of a trial on the major offense. Will the civil liability provisions in this bill encourage defendants to resist receiving charges out of fear that they might be setting themselves up for civil liability?

This bill establishes a minimum liability of \$1,000

(continued on page 2)

MJN_067

Receiving Stolen Property - Civil Damages

for receiving stolen property. Will this encourage injured parties to sue even when the value of the property stolen and received is negligible?

The bill grants a civil action to "any person who has been injured" as a result of someone receiving stolen property. Is the word "injured" limited solely to the victim of the crime, or would it include persons who were collaterally injured by the offense?

A person who is injured by a criminal act can always file a civil suit for damages, and can even collect punitive damages. This bill, in effect, simply adds to that law by requiring the granting of punitive damages in a set amount.



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Enrolled (Governor) Materials

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CHRISTOPHER ZIRKLE
DEPUTIES

Sacramento, California
August 8, 1972

Honorable Ronald Reagan
Governor of California
Sacramento, California

SENATE Bill No. 1068

Dear Governor Reagan:

Pursuant to your request we have reviewed the above-numbered bill authored by Senator Zensick and, in our opinion, the title and form are sufficient and the bill if approved by the Governor will be constitutional. The digest on the printed bill as enrolled correctly reflects the views of this office.

Very truly yours,
George H. Murphy
Legislative Counsel

By George H. Murphy
Principal Deputy

Copy to Honorable George H. Zensick
pursuant to Joint Rule 34.

MJN_070

1972-963 Page 35 of 87

ENROLLED BILL MEMORANDUM TO GOVERNOR	DATE August 11, 1972
BILL NO. SB 1068	AUTHOR Zenovich

Vote—Senate

Ayes— Unanimous
 Noes—

Vote—Assembly

Ayes— Unanimous
 Noes—

Permits a persons who has been injured by a violation of a provision of law relating to buying or receiving stolen property to bring a civil action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit, and attorney's fees against the person committing such violation.

The bill was introduced at the request of the California Trucking Association.

The Legal Affairs Unit recommends approval.

Recommendation Approve	Legislative Secretary <i>CWE</i>
---------------------------	-------------------------------------

MJN_071

AMENDED IN ASSEMBLY JULY 27, 1972

AMENDED IN SENATE JUNE 26, 1972

AMENDED IN SENATE MAY 30, 1972

SENATE BILL

No. 1068

Introduced by Senator Zenovich

March 15, 1972

An act to amend Section 496 of the Penal Code, relating to stolen property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as amended, Zenovich. Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for *three times the amount of actual damages, if any, sustained by plaintiff, costs of suit, and attorney's fees specified amount* against person committing such violation.

Vote—Majority; Appropriation—~~No~~; Fiscal Committee—No.

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

- 1 SECTION 1. Section 496 of the Penal Code is amended
2 to read:
3 496. 1. Every person who buys or receives any
4 property which has been stolen or which has been
5 obtained in any manner constituting theft or extortion,
6 knowing the property to be so stolen or obtained, or who
7 conceals, sells, withholds or aids in concealing, selling, or
8 withholding any such property from the owner, knowing
9 the property to be so stolen or obtained, is punishable by
10 imprisonment in a state prison for not more than 10 years,

1 or in a county jail for not more than one year; provided,
2 that where the district attorney or the grand jury
3 determines that such action would be in the interests of
4 justice, the district attorney or the grand jury, as the case
5 may be, may, if the value of the property does not exceed
6 two hundred dollars (\$200), specify in the accusatory
7 pleading that the offense shall be a misdemeanor,
8 punishable only by imprisonment in the county jail not
9 exceeding one year.

10 2. Every person whose principal business is dealing in
11 or collecting used or secondhand merchandise or
12 personal property, and every agent, employee or
13 representative of such person, who buys or receives any
14 property which has been stolen or obtained in any
15 manner constituting theft or extortion, under such
16 circumstances as should cause such person, agent,
17 employee or representative to make reasonable inquiry
18 to ascertain that the person from whom such property
19 was bought or received had the legal right to sell or
20 deliver it, without making such reasonable inquiry, shall
21 be presumed to have bought or received such property
22 knowing it to have been so stolen or obtained. This
23 presumption may, however, be rebutted by proof.

24 3. When in a prosecution under this section it shall
25 appear from the evidence that the defendant's principal
26 business was as set forth in the preceding paragraph, that
27 the defendant bought, received, or otherwise obtained,
28 or concealed, withheld or aided in concealing or
29 withholding from the owner, any property which had
30 been stolen or obtained in any manner constituting theft
31 or extortion, and that the defendant bought, received,
32 obtained, concealed or withheld such property under
33 such circumstances as should have caused him to make
34 reasonable inquiry to ascertain that the person from
35 whom he bought, received, or obtained such property
36 had the legal right to sell or deliver it to him, then the
37 burden shall be upon the defendant to show that before
38 so buying, receiving, or otherwise obtaining such
39 property, he made such reasonable inquiry to ascertain
40 that the person so selling or delivering the same to him

1 had the legal right to so sell or deliver it.

2 4. Any person who has been injured by a violation of
3 paragraph 1 of this section may bring an action for ~~the~~
4 ~~greater of the following:~~

5 ~~(a) One thousand dollars (\$1,000), costs of suit, and~~
6 ~~reasonable attorney's fees.~~

7 ~~(b) Three *three* times the amount of actual damages,~~
8 ~~if any, sustained by the plaintiff, costs of suit and~~
9 ~~reasonable attorney's fees.~~

O

AMENDED IN ASSEMBLY JULY 27, 1972

AMENDED IN SENATE JUNE 26, 1972

AMENDED IN SENATE MAY 30, 1972

SENATE BILL

No. 1068

Introduced by Senator Zenovich

March 15, 1972

An act to amend Section 496 of the Penal Code, relating to stolen property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as amended, Zenovich. Stolen property.

Permits a person who has been injured by violation of provision of law relating to buying or receiving stolen property to bring civil action for *three times the amount of actual damages, if any, sustained by plaintiff, costs of suit, and attorney's fees* ~~specified amount~~ against person committing such violation.

Vote—Majority; Appropriation—No;
Fiscal Committee—No.

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

1 SECTION 1. Section 496 of the Penal Code is amended
2 to read:
3 496. 1. Every person who buys or receives any
4 property which has been stolen or which has been
5 obtained in any manner constituting theft or extortion,
6 knowing the property to be so stolen or obtained, or who
7 conceals, sells, withholds or aids in concealing, selling, or
8 withholding any such property from the owner, knowing
9 the property to be so stolen or obtained, is punishable by
10 imprisonment in a state prison for not more than 10 years,

53636 2106820 18

MJN_075

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1 or in a county jail for not more than one year; provided,
2 that where the district attorney or the grand jury
3 determines that such action would be in the interests of
4 justice, the district attorney or the grand jury, as the case
5 may be, may, if the value of the property does not exceed
6 two hundred dollars (\$200), specify in the accusatory
7 pleading that the offense shall be a misdemeanor,
8 punishable only by imprisonment in the county jail not
9 exceeding one year.

10 2. Every person whose principal business is dealing in
11 or collecting used or secondhand merchandise or
12 personal property, and every agent, employee or
13 representative of such person, who buys or receives any
14 property which has been stolen or obtained in any
15 manner constituting theft or extortion, under such
16 circumstances as should cause such person, agent,
17 employee or representative to make reasonable inquiry
18 to ascertain that the person from whom such property
19 was bought or received had the legal right to sell or
20 deliver it, without making such reasonable inquiry, shall
21 be presumed to have bought or received such property
22 knowing it to have been so stolen or obtained. This
23 presumption may, however, be rebutted by proof.

24 3. When in a prosecution under this section it shall
25 appear from the evidence that the defendant's principal
26 business was as set forth in the preceding paragraph, that
27 the defendant bought, received, or otherwise obtained,
28 or concealed, withheld or aided in concealing or
29 withholding from the owner, any property which had
30 been stolen or obtained in any manner constituting theft
31 or extortion, and that the defendant bought, received,
32 obtained, concealed or withheld such property under
33 such circumstances as should have caused him to make
34 reasonable inquiry to ascertain that the person from
35 whom he bought, received, or obtained such property
36 had the legal right to sell or deliver it to him, then the
37 burden shall be upon the defendant to show that before
38 so buying, receiving, or otherwise obtaining such
39 property, he made such reasonable inquiry to ascertain
40 that the person so selling or delivering the same to him

1 had the legal right to so sell or deliver it.

2 4. Any person who has been injured by a violation of
3 paragraph 1 of this section may bring an action for ~~the~~
4 ~~greater of the following:~~

5 ~~(a) One thousand dollars (\$1,000), costs of suit, and~~
6 ~~reasonable attorney's fees.~~

7 ~~(b) Three *three* times the amount of actual damages,~~
8 ~~if any, sustained by the plaintiff, costs of suit and~~
9 ~~reasonable attorney's fees.~~

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GOVERNOR'S OFFICE ENROLLED BILL REPORT REQUEST

Date 8-2

Bill No. AB 1068

Date Due 8-17

EDUCATION SECTION

LEGAL AFFAIRS SECTION

OK

* Please reply within five working days of above date unless a different due date is indicated.

The above bill has been received by this office for Governor Reagan's consideration.
An analysis of this bill, together with your recommendations will be appreciated.

LEGISLATIVE SECTION

97850-401 11-75 1M 087

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FRESNO COUNTY
VICE CHAIRMAN
COMMITTEE ON AGRICULTURE

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WILDLIFE
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COMMITTEE

JOHN R. DREWS
ADMINISTRATIVE ASSISTANT

CALIFORNIA LEGISLATURE

Senate

August 1, 1972

The Honorable Ronald Reagan
Governor of California
State Capitol
Sacramento, California 95814

Re: SB 1068

Dear Governor Reagan:

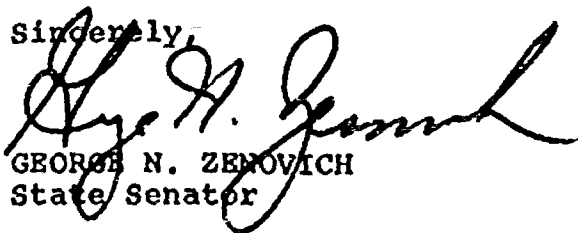
This is to urge your favorable consideration of my SB 1068. This measure has passed both the Senate and Assembly unanimously and needs only your signature to become law.

A growing concern to the transportation industry, has been the increased use of flea markets as an outlet for stolen property. This measure is directed at closing this outlet. It provides that a person injured by a violation of the provision of law relating to the buying or receiving of stolen property may bring a civil action for three times the amount of actual damages plus the cost of bringing the suit against the person committing the violation.

I believe the threat of this civil action will help to limit the market for stolen goods. The final purchaser of stolen property may think twice before buying stolen goods which could bring a suit for three times the value of the goods.

I urge you to sign SB 1068.

Sincerely,


GEORGE N. ZENOVICH
State Senator

MJN_080

1972-963 Page 45 of 87

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California Trucking Association

GENERAL OFFICE
BURLINGAME, CALIFORNIA 94010
1240 BAYSHORE HIGHWAY
(415) 347-3551

LOS ANGELES, CALIFORNIA 90007
3301 SOUTH GRAND AVENUE
(213) 747-5571

SACRAMENTO, CALIFORNIA 95814
HOTEL SENATOR
(916) 442-0117

926 J Street, Suite 516
Sacramento, California 95814
August 7, 1972

The Honorable Ronald Reagan, Governor
State Capitol
Sacramento, California 95814

Dear Governor Reagan:

Re: Senate Bill 1068

The transportation industry, airlines, ships, railroads and trucks, lose millions of dollars of goods to thieves every year. This measure, SB 1068, is pointed at restricting one of the major outlets of stolen property -- the Flea Market.

There was no opposition to the bill and it went through both houses without having a no vote cast against it.

We will appreciate your favorable consideration of this measure.

Respectively yours,

BERT TRASK
Senior Legislative Consultant

BT/bl



LRI History LLC

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(916) 442.7660

Unitemized Correspondence/Materials By Source

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Author's File Materials

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STATEMENT - SENATE BILL 1068 (1972)

The purpose of this Bill with amendments is to take the profit out of cargo thievery by making persons who steal, fence, or receive stolen property, civilly liable in damages for their acts to for-hire carriers from whom the property was stolen.

The Bill provides such carriers can sue for \$1,000 or three times the amount of actual damages, whichever is higher. Punitive damages are provided to afford carriers who pay the brunt of losses for cargo theft an opportunity to recover losses and costs and at the same time tighten up the shady market area where thieves sell their stolen goods.

Certainly, if a thief does not have a buyer to purchase or "fences" for resale his stolen or "hot" cargo, then his market will dry up.

A recent tort action in Georgia is one example that may aid in discouraging the theft of goods in transit from for-hire carriers. In that case a judgment was entered under a Georgia State law for the value of merchandise stolen from a commercial trucking firm and punitive damages assessed against those who participated in the theft and the owner of a company who purchased the stolen goods.

Briefly, the facts were: The thieves stole \$26,000 worth of wire fencing from a motor carrier, contacted a fence, who by a middle-of-the-night phone call, sold the fencing to the owner of a retail building supply for \$2,600. Subsequently, officers solved the case recovering some of the wire. The two thieves and the fence were tried and found guilty. The final buyer was not brought to trial on criminal charges because of a decision that proving he had knowledge of the theft at the time of his purchase was too difficult to secure a criminal verdict. Under a suit by the plaintiff trucking company, the evidence did support a judgment of actual damages of \$11,877.12 and \$4,375 punitive damages against each of the four defendants, the two thieves, the fence and the buyer.

The fence and the buyer defended the civil action but did not appeal the judgment. Had it not been for the Georgia statute the ultimate purchaser of the stolen goods would have gone untouched.

The number of times a comparable fact pattern has existed where a criminal action may be successfully prosecuted against all

but the final purchaser is well known in the trucking industry.

The Bill places a duty on persons furnishing temporary space in a market place open to the public to keep a record of the name and address of each tenant vendor, a description of the property offered for sale and the name and address of the person from whom the tenant vendor acquired the property offered for sale.

The goal of this provision is to include vacant lot sales, etc. at which stolen goods are often sold and which cannot be effectively policed without the information. Just the requirement to keep these records will discourage these places as fences to sell stolen goods.

RBL:dw

THE PURPOSE OF THIS BILL IS TO TAKE SOME OF THE PROFIT OUT OF CARGO THIEVERY BY MAKING PERSONS WHO STEAL, FENCE, OR RECEIVE STOLEN PROPERTY, CIVILLY LIABLE IN DAMAGES FOR THEIR ACTS TO THE CARRIER FROM WHOM THE PROPERTY WAS STOLEN.

THE BILL PROVIDES SUCH CARRIERS CAN SUE FOR THREE TIMES THE AMOUNT OF ACTUAL DAMAGES SUSTAINED BY THE PLAINTIFF, COSTS OF SUIT AND REASONABLE ATTORNEY'S FEES.

MILLIONS OF DOLLARS OF STOLEN PROPERTY ARE "FENCED" THROUGH THE SO-CALLED "FLEA MARKETS" EACH YEAR AND SB 1068 IS AN EFFORT TO PLUG ONE MORE OUTLET FOR STOLEN GOODS.

CERTAINLY, IF A THIEF DOES NOT HAVE A BUYER TO PURCHASE OR "FENCES" FOR RESALE, HIS STOLEN OR "HOT" CARGO WILL BE MORE DIFFICULT TO DISPERSE.

A RECENT TORT ACTION IN GEORGIA IS ONE EXAMPLE THAT MAY AID IN DISCOURAGING THE THEFT OF GOODS IN TRANSIT FROM FOR-HIRE CARRIERS. IN THAT CASE A JUDGMENT WAS ENTERED UNDER A GEORGIA STATE LAW FOR THE VALUE OF MERCHANDISE STOLEN FROM A COMMERCIAL TRUCKING FIRM AND PUNITIVE DAMAGES ASSESSED AGAINST THOSE WHO PARTICIPATED IN THE THEFT AND THE OWNER OF A COMPANY WHO PURCHASED THE STOLEN GOODS.

BRIEFLY, THE FACTS WERE: THE THIEVES STOLE \$26,000 WORTH OF WIRE FENCING FROM A MOTOR CARRIER, CONTACTED A FENCE, WHO BY A MIDDLE-OF-THE-NIGHT PHONE CALL, SOLD THE FENCING TO THE OWNER OF A RETAIL BUILDING SUPPLY FOR \$2,600. SUBSEQUENTLY, OFFICERS SOLVED THE CASE, RECOVERING SOME OF THE WIRE.

THE TWO THIEVES AND THE FENCE WERE TRIED AND FOUND GUILTY. THE FINAL BUYER WAS NOT BROUGHT TO TRIAL ON CRIMINAL CHARGES BECAUSE OF A DECISION THAT PROVING HE HAD KNOWLEDGE OF THE THEFT AT THE TIME OF HIS PURCHASE WAS

TOO DIFFICULT TO SECURE A CRIMINAL VERDICT, UNDER A SUIT BY THE PLAINTIFF TRUCKING COMPANY, THE EVIDENCE DID SUPPORT A JUDGEMENT OF ACTUAL DAMAGES OF \$11,877.12 and \$4,375 PUNITIVE DAMAGES AGAINST EACH OF THE FOUR DEFENDANTS, THE TWO THIEVES, THE FENCE AND THE BUYER.

THE FENCE AND THE BUYER DEFENDED THE CIVIL ACTION BUT DID NOT APPEAL THE JUDGEMENT. HAD IT NOT BEEN FOR THE GEORGIA STATUTE THE ULTIMATE PURCHASER OF THE STOLEN GOODS WOULD HAVE GONE UNTOUCHED.

THE NUMBER OF TIMES A COMPARABLE FACT PATTERN HAS EXISTED WHERE A CRIMINAL ACTION MAY BE SUCCESSFULLY PROSECUTED AGAINST ALL BUT THE FINAL PURCHASER IS WELL KNOWN.

THE BILL WENT OUT OF SENATE JUDICIARY, 9-0.

THE BILL WENT OFF THE SENATE FLOOR, 26-0.

THE BILL WENT OUT OF ASSEMBLY CRIMINAL JUSTICE, 6-0;

THERE HAS BEEN NO OPPOSITION.

STATEMENT ON SENATE BILL 1068 FOR ASSEMBLYMAN ERNEST N. MOBLEY

THE TRANSPORTATION INDUSTRY, AIRLINES, SHIPS, RAILROADS AND TRUCKS, LOSES MILLIONS OF DOLLARS OF GOODS TO THIEVES EVERY YEAR. THIS MEASURE, SB 1068, IS POINTED AT RESTRICTING ONE OF THE OUTLETS OF STOLEN PROPERTY -- THE FLEA MARKET.

IT HAS GONE THROUGH SENATE JUDICIARY, OFF THE SENATE FLOOR AND THROUGH THE ASSEMBLY COMMITTEE ON CRIMINAL JUSTICE WITHOUT HAVING A NO VOTE CAST AGAINST IT.

I ASK FOR AN "AYE" VOTE ON SB 1068.

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August 1, 1972

The Honorable Ronald Reagan
Governor of California
State Capitol
Sacramento, California 95814

Re: SB 1068

Dear Governor Reagan:

This is to urge your favorable consideration of my SB 1068. This measure has passed both the Senate and Assembly unanimously and needs only your signature to become law.

A growing concern to the transportation industry, has been the increased use of flea markets as an outlet for stolen property. This measure is directed at closing this outlet. It provides that a person injured by a violation of the provision of law relating to the buying or receiving of stolen property may bring a civil action for three times the amount of actual damages plus the cost of bringing the suit against the person committing the violation.

I believe the threat of this civil action will help to limit the market for stolen goods. The final purchaser of stolen property may think twice before buying stolen goods which could bring a suit for three times the value of the goods.

I urge you to sign SB 1068.

Sincerely,

GEORGE N. ZENOVICH
State Senator



put bill file

California Trucking Association

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1240 BAYSHORE HIGHWAY
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HOTEL SENATOR
(916) 442-1017

886 - 9 ACT

926 J Street, Suite 516
Sacramento, California 95814
August 7, 1972

The Honorable Ronald Reagan, Governor
State Capitol
Sacramento, California 95814

Dear Governor Reagan:

Re: Senate Bill 1068

The transportation industry, airlines, ships, railroads and trucks, lose millions of dollars of goods to thieves every year. This measure, SB 1068, is pointed at restricting one of the major outlets of stolen property -- the Flea Market.

There was no opposition to the bill and it went through both houses without having a no vote cast against it.

We will appreciate your favorable consideration of this measure.

Respectively yours,

BERT TRASK
Senior Legislative Consultant

BT/bl

bcc: Thomas C. Schumacher, Jr.
The Hon. George N. Zenovich ✓
State Senator

September 15, 1972

Mr. Roger Sollenbarger
Attorney-at-Law
9580 West 14th Avenue
Lakewood, Colorado 80215

Dear Mr. Sollenbarger:

Thank you for your recent correspondence with request for information regarding my Senate Bill 1068.

This bill was signed into law by Governor Reagan on August 16, 1972. I am sending you a chaptered copy of that legislation along with other pieces of additional information you may find helpful.

Sincerely,

GEORGE N. ZENOVICH
State Senator

Enclosures

ROGER SOLLENBARGER
ATTORNEY AND COUNSELOR AT LAW
9580 WEST 14TH AVENUE
LAKEWOOD, COLORADO 80215

AREA CODE 303
233-8105

September 6, 1972

SEP 11 1972

The Honorable Senator George Zenovich
State Capitol Building
Sacramento, California 95813

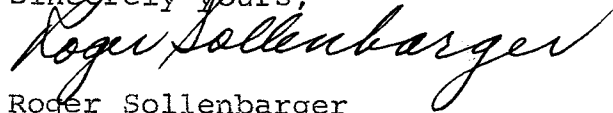
Re: SB-1068

Dear Senator Zenovich:

I have before me a xerox copy of a publication called Caltrux which appears to be an official publication of the California Trucking Association. It is Volume XXIII No. 35, dated August 28, 1972. An article reported therein discusses legislation authored by you giving carriers more legal and financial relief when dealing with thieves and purchasers of stolen property. It permits a person who has been the victim of such thefts, to bring civil action for treble damages plus costs and attorney's fees against the thief and the receivers of stolen property.

I am quite anxious to read the Bill in its entirety as we are going to propose similar legislation in Colorado. I would be very grateful for any assistance, advice and council which you may have in this endeavor. Could your office please supply me with a copy of the legislation so that we may use it as a guide? I appreciate your co-operation.

Sincerely yours,



Roger Sollenbarger

RS/nch

MJN_094

1972-963 Page 59 of 87



H. X. J.

California Trucking Association

GENERAL OFFICE
BURLINGAME, CALIFORNIA 94010
1240 BAYSHORE HIGHWAY
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LOS ANGELES, CALIFORNIA 90040
SUITE 1029, 6055 E. WASHINGTON BLVD.
(213) 685-6868

SACRAMENTO, CALIFORNIA 95814
SUITE 516, 926 J STREET
(916) 442-1017

Burlingame
January 4, 1973

SECRET

The Honorable George N. Zenovich
Senator, State of California
State Capitol Building
Sacramento, California 95814

Dear George:

During the last session you carried a bill for us, SB 1068. The bill was designed to control fencing of stolen goods in an effort to solve one of the most difficult problems in the trucking industry, and that is, theft of goods.

You will, I am sure, be interested in the attached correspondence from Senator Alan Bible to me concerning this legislation. Enclosed is also my letter to Senator Bible in response to his correspondence.

Cordially,


Thomas C. Schumacher, Jr.
Managing Director

TCS:mc

Enclosures



California Trucking Association

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SUITE 516, 926 J STREET
(916) 442-1017

Burlingame
January 4, 1973

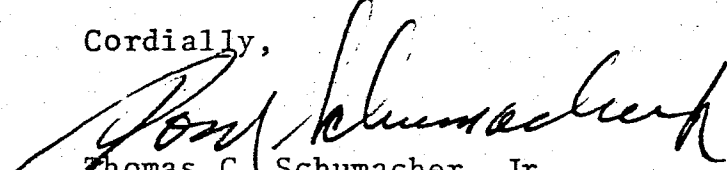
The Honorable Alan Bible
United States Senator
Select Committee on Small Business
145 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Bible:

Thank you for your kind letter of December 27, congratulating this Association in its efforts to secure passage of legislation dealing with the intrastate control of fencing. Most of the success of this legislation belongs to long-range thinkers, such as yourself, who blaze the way for this type of legislation and to the able handling of the bill by Senator Zenovich from Fresno, California. The industry is indebted to you for your efforts in seeking solutions to the problems of theft in our business.

Thank you again for your encouragement.

Cordially,


Thomas C. Schumacher, Jr.
Managing Director

TCS:mc

ALAN BIBLE, NEV., CHAIRMAN

JOHN SPARKMAN, ALA.
RUSSELL B. LONG, LA.
HARRISON A. WILLIAMS, JR., N.J.
GAYLORD NELSON, WIS.
JOSEPH M. MONTOYA, N. MEX.
FRED R. HARRIS, OKLA.
DAVID H. GAMBRELL, GA.

JACOB K. JAVITS, N.Y.
PETER H. DOMINICK, COLO.
MARK O. HATFIELD, OREG.
ROBERT DOLE, KANS.
EDWARD J. GURNEY, FLA.
J. GLENN BEALL, JR., MD.
ROBERT TAFT, JR., OHIO
LOWELL P. WEICKER, JR., CONN.

CHESTER H. SMITH,
STAFF DIRECTOR AND GENERAL COUNSEL

United States Senate

SELECT COMMITTEE ON SMALL BUSINESS
(CREATED PURSUANT TO S. RES. 58, 91ST CONGRESS)
WASHINGTON, D.C. 20510

Calif. Trucking Assn.

JAN 2 1973

Burlingame, Calif.

December 27, 1972

Mr. Thomas C. Schumacher, Jr.
Managing Director
California Trucking Association
1240 Bayshore Highway
Burlingame, California 94010

Dear Mr. Schumacher:

Because your Association helped to lead the way in our efforts last year to deal on an intrastate basis with enactment of new laws to control fencing, I wanted to send along to you a copy of my letter which has gone forward to 49 Governors and Governors-elect, suggesting that they might want to recommend a California-type treble damage bill to their state legislatures next year.

For your information, I also enclose a copy of a memorandum sent forward by Attorney General Richard Kleindienst to all United States Attorneys throughout the country, suggesting the establishment of Federal-state law enforcement committees, and wherein he cites the importance of seeking to deal with the cargo theft problem. Likewise, please be advised that through the courtesy of your Association, I sent copies of the new California civil damage remedy for criminal redistribution statute to all the Governors as well. I further enclose a copy of a press release distributed from my office.

I particularly want to thank your Association's officers for their help in this entire matter and I hope that it will be a pattern for other states to follow.

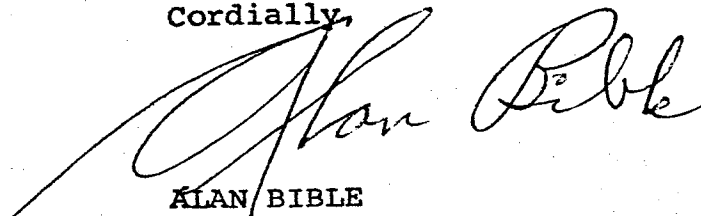
MJN_097

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2.

Please accept my best wishes and greetings
for the New Year!

Cordially,

A handwritten signature in cursive script that reads "Alan Bible". The signature is written in dark ink and is positioned to the right of the word "Cordially,".

ALAN BIBLE
Chairman

Enclosures

ALAN BIBLE, NEV., CHAIRMAN
JOHN SPARKMAN, ALA.
RUSSELL B. LONG, LA.
HARRISON A. WILLIAMS, JR., N.J.
GAYLORD NELSON, WIS.
JOSEPH M. MONTOYA, N. MEX.
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ROBERT TAFT, JR., OHIO
LOWELL P. WEICKER, JR., CONN.

CHESTER H. SMITH,
STAFF DIRECTOR AND GENERAL COUNSEL

United States Senate

SELECT COMMITTEE ON SMALL BUSINESS
(CREATED PURSUANT TO S. RES. 81, 81ST CONGRESS)
WASHINGTON, D.C. 20510

ADMIN. Ex 3-1
XR FENCE OPER-
ATIONS 1-1-2

December 14, 1972

This letter was sent to 39 Governors and 10 Governors-Elect on 12/14/72.

May I respectfully call your attention to a subject that you might wish to consider for inclusion in recommendations to your legislature in the forthcoming session. This topic concerns a proposal whereby individual states may deal more effectively with the \$16 billion per year it costs American businesses for property crime thievery. Obviously, to make up those losses, the consumer pays for them by crime-inflated prices.

As Chairman of the U. S. Senate Small Business Committee, I have conducted extensive investigations for several years into the impact of crime on business generally. For more than one year our focus has been on operations of the country's criminal redistribution or "fencing" system which supports the thievery of commodities from business. Our elementary finding is that without a "fence" to purchase stolen goods, thievery becomes a meaningless, profitless act. If a thief does not have a buyer or a "fence" to resell the stolen goods, the stolen or "hot cargo" is more difficult to disperse profitably.

Our Committee's work led to my introduction last year of an amendment to the Victims of Crime Compensation Act of 1972 which would provide a Federal civil remedy to reach the purchasers and sellers of stolen goods by making

MJN_099

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them liable in treble damages for their acts. Because this legislation is designed to reach only interstate thievery, comparable laws to curb intrastate fencing within the several states would seem essential to close the whole door.

Last year our Committee's work in this field stimulated the State of California to enact a similar law to reach fencing operations on an intrastate basis there. A copy of the California law, signed on August 16, 1972 by Governor Reagan, is enclosed for your examination.

Also, there is a copy of my Federal legislative proposal, as well as a detailed explanation thereof, found in the Committee report, starting at page 45. This bill was supported by the Nixon Administration, the American Trucking Associations, the American Association of Railroads, and other national transportation and business interests. It passed the U. S. Senate by an 81 to 0 vote on September 5, 1972. Unfortunately, during the final days of the Congress, it was impossible for the House of Representatives to hold hearings and consider the measure. It is my plan to reintroduce the bill and push for its enactment early next year.

This information is supplied to you with the hope that you may wish to consider a measure comparable to the new California law as a part of your 1973 legislative proposals and thereby deal realistically with one key aspect of the crime problem.

The Executive Department of the Federal Government, acting through the U. S. Attorney General, is also acting to combat the criminal fence system and related problems by working for the establishment of Federal-state law enforcement committees. The U. S. Attorney General has already contacted the United States Attorneys throughout the country, asking them to effect liaison with appropriate state and local officials in an effort to establish the enforcement committees just mentioned. I heartily support this effort and I urge you to lend your cooperation toward achieving this most important goal.

3.

The establishment of a permanent Federal-state law enforcement committee within your state, comprised of key state law enforcement officials and appropriate Federal representatives, could do much to achieve a continuing coordinated effort, particularly in those areas of criminal law enforcement where the states and Federal Government share concurrent jurisdiction. More specifically, the cargo theft problem, an area of special concern to the Senate Select Committee on Small Business, would be an excellent starting point for the law enforcement committee envisioned.

Should you desire additional information, or if I can be of further service, please do not hesitate to contact me.

Cordially,

ALAN BIBLE
Chairman

Enclosures

DEPARTMENT OF JUSTICE

WASHINGTON, D. C.

NOVEMBER 30, 1972

MEMORANDUM NO. 782

To: All United States Attorneys

Subject: Establishment of federal-state
law enforcement committees

This memorandum is prompted by a desire to effect an improvement in the coordination and liaison between federal and state and local law enforcement authorities in those areas of the law in which we share concurrent jurisdiction.

Recently, as you know, the Department has sought to eliminate any lapses in the investigation and prosecution of two troublesome concurrent jurisdiction offenses: cargo thefts and auto thefts. On October 20, 1971, Mr. Kleindienst, as Deputy Attorney General, directed the United States Attorneys throughout the country to contact their state counterparts and endeavor to enter informal agreements with those officials so as to eliminate the lapses in enforcement just described. Your responses to his request indicate that the U.S. Attorneys in approximately 80% of the Federal Judicial Districts were successful in entering agreements. I am sufficiently encouraged by this success in the informal agreement effort to request that action be initiated to further implement this idea on a continuing basis.

The purpose of this memorandum is to urge you to explore the feasibility of establishing a permanent federal-state law enforcement committee to focus upon and adhere to the needs of law enforcement within your state. The committee envisioned would consist of key state and local law enforcement officials and appropriate federal representatives. Such an enforcement committee could do much, through regularly scheduled meetings, to achieve a long term coordinated effort by the state and local authorities and the Federal Government which would provide effective criminal law enforcement in those areas where we share concurrent jurisdiction.

The exact composition and size of a federal-state law enforcement committee, and the channels through which it should be established, are matters which should be left to your discretion and knowledge of the situation in your locality. In addition, coordination with other U.S. Attorneys will obviously be necessary in those states containing more than one Federal Judicial District.

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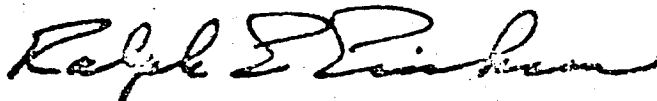
1972-963 Page 67 of 87

As you may know, the United States Senate Select Committee on Small Business, chaired by Senator Alan Bible, deserves a great deal of credit for exposing the dimensions of the cargo theft problems confronting the nation. In this regard, Senator Bible has found the concept of federal-state law enforcement committees sufficiently meritorious with reference to the cargo theft problem that he has agreed to endorse this concept in letters addressed to all 50 state Governors. A copy of the letter that Senator Bible will send to the Governors is attached for your information and assistance in contacting the appropriate state officials within your respective states.

The cargo theft area could serve as an excellent starting point for a federal-state law enforcement committee. A copy of the proceedings of the 1972 National Cargo Security Conference is enclosed to assist you in familiarizing yourself with the dimensions of the problem. I suggest you review the material and take steps to determine the extent of the problem in your Judicial District. In this regard, you will find it profitable to convene a cargo security meeting, with state and local law enforcement officials and representatives of the transportation industry in attendance, in order to insure that you are in a position to tackle specific problems when a federal-state law enforcement committee is formed. To assist you in planning for a preparatory cargo security meeting, I have enclosed a list of the cargo security representatives of a number of state Governors. This list was produced in response to a letter from Secretary Volpe of the United States Department of Transportation, in which he sought state level support for the fight against cargo theft.

Please advise me by letter of the results of your efforts to establish the federal-state law enforcement committees by February 1973. Specifically, it is requested that your letter set forth briefly the nature of the committees that you were able to establish. Coincidentally, should you decide to convene a cargo security meeting as well, please notify me. The Department will assist you in any way possible to insure the success of your plans. If you were unable to persuade the state and local authorities to participate in this effort, it is requested that you briefly advise me by letter regarding the difficulties you encountered and the courses of action that you may be pursuing to overcome those difficulties.

I am looking forward to hearing from you concerning the results that you have achieved in this most important endeavor.



RALPH E. ERICKSON
Deputy Attorney General

U. S. SENATE SMALL BUSINESS COMMITTEE
FOR RELEASE
Thursday, December 14, 1972 - A.M.

OFFICE: 424 OSOB
PHONE: 225-5175
SSBC #641

SENATOR BIBLE URGES GOVERNORS TO PUSH FOR STATE LAWS TO
CONTROL FENCING; ASKS SUPPORT FOR JUSTICE DEPARTMENT
LOCAL-STATE-FEDERAL LAW ENFORCEMENT EFFORT

WASHINGTON---Senator Alan Bible (D-Nev) today called on the nation's governors to push for enactment of new state laws to control fencing, the criminal redistribution system supporting the \$16 billion cost that American businesses pay yearly for property crime thievery.

In letters to 49 governors and governors-elect, the Nevada Senator urged that they recommend a new law to their 1973 legislatures patterned after his treble damage civil remedy bill. California adopted the Bible approach last August when Governor Reagan signed a law making individuals who steal, receive, or sell stolen property liable in civil damages to pay the victim three times the loss value.

"Without a fence to purchase stolen goods, thievery becomes practically a meaningless, profitless act," Bible told the governors. "If a thief does not have a buyer or a fence to resell the billions of dollars' worth of commodities stolen annually, that 'hot cargo' is more difficult to disperse profitably. Major thievery will not decline until the profit is taken out of it by putting the purchaser of stolen goods out of business by drying up his market."

As Chairman of the Senate Small Business Committee investigating business crime and transportation thievery for three years, Bible said his Federal proposal, passed 81 to 0 by the Senate last September, dealt with the "interstate shipment theft problem only." The Bible measure was not voted on in the House in the final days of the last Congress.

"To curb fencing activities within the states themselves, we need comparable laws there to close the whole door by stopping

intrastate thieves," Bible stated. "We will push for early Congressional enactment in 1973. After all, the \$16 billion that property crimes cost business each year is passed along to the consumers by crime-inflated prices."

In his letter to the governors, Bible had high praise for Attorney General Richard Kleindienst's proposal calling for establishment of Federal-state-local law enforcement liaison committees in every state to combat the criminal fencing system and related business crime problems. He urged the governors to "lend your cooperation toward achieving this most important goal."

The Justice Department proposal, which went forward this week to U. S. Attorneys in all states, was a recommendation of the Senate Small Business Committee's investigatory report on trucking theft and hijacking last summer.

Bible told the governors that "establishment of a permanent Federal-state law enforcement committee within your state, comprised of key state law enforcement officials and appropriate Federal representatives, could do much to achieve a continuing coordinated effort, particularly in those areas of criminal law enforcement where the states and the Federal government share concurrent jurisdiction." His letter cited the \$1½ billion cargo thievery losses from air, truck, rail and maritime shipping every year "as an excellent starting point."

"Because state and local law enforcement officers are the real backbone of our country's efforts to control crime in all its forms, and because out there is where the action is," Bible said, "I heartily support this effort since an active local-state-Federal anti-crime coordinating and liaison group in every state can provide an outstanding nucleus for service in many ways to stop the criminal preying on every American, either through physical injury, by direct thievery, or by indirectly paying crime-inflated prices."

Di Salvo Trucking Co.

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San Francisco General Office

January 22, 1973

The Honorable Alan Bible
Senate Office Building
Washington, D.C. 20510

JAN 24 1973

Dear Senator Bible:

The action of the Select Committee on Small Business, concerning laws to minimize Cargo Theft, is most gratifying.

I agree, the "fence" plays a major role in "why" cargo is pilfered.

There is, however, an even better "out-let" available to those who would steal cargo.

I am referring to these so-called flea-markets, or swap-meets. These are market places that enable a thief to dispose of stolen goods at prices higher than any "fence" would pay.

Any legislation to control such markets would be most appropriate.

Very truly yours,

DI SALVO TRUCKING COMPANY


CHARLES J. LAWLOR
President

CJL:jkh

cc

The Honorable Governor Ronald Reagan
The Honorable Senator George Zenovich
Mr. Thomas C. Schumacher, Jr., Managing Director, CTA

Di Salvo

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Theft of Truck Cargo: a Fast-Growing Racket

BY DAVID ROSENZWEIG

Times Staff Writer

Truck cargo theft has become one of the fastest-growing criminal enterprises in America.

And one of the most costly, too. The U.S. Senate Select Committee on Small Business sizes up the dimensions of the problem at \$825 million a year—triple the losses of five years ago, and soaring.

Among the public, which ultimately pays the freight, the impression abounds that truck heists are largely the work of hijackers way-laying defenseless drivers as smoothly as military commandos.

Find Convenient Outlets

Not only have the crooks found it easy to steal valuable truck shipments, they have also discovered convenient outlets for their wares, often in the so-called legitimate marketplace.

In California, for example, vast quantities of "hot" merchandise are peddled with impunity at weekend flea markets and swap meets, according to many law enforcement officers.

Michael J. Murphy, former New York City police commissioner, now president of the National Automobile Theft Bureau, which has become involved in combating truck theft, says:

"From the criminal's point of view, truck cargo theft is a relatively safe crime, much safer and more lucrative than bank robbery and drug peddling."

"It's easy to carry out, easy to dispose of stolen goods and, if you happen to get caught, the chances of getting off with a light or suspended sentence are remarkably good."

Los Angeles
Times

CC SECTION B T

SUNDAY, JULY 2, 1972

For a small fee, a petty crook can also set up shop at a flea market or swap meet, disposing of his loot in a few hours with no questions asked and often before the merchandise has been discovered to be missing.

"The flea market or swap meet is a thieves' paradise," says Sgt. Gary Leonard, a San Jose detective who has specialized in the investigation of cargo theft.

Flea Market Sales

Los Angeles Det. Sgt. George Moeller, another experienced investigator, says: "I'm not the least bit hesitant in saying that large quantities of stolen merchandise are being sold at the flea markets."

The same observations are made by numerous other local, state and federal law officers, insurance investigators and trucking company security chiefs.



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Senate Policy Committee Materials

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STATEMENT - SENATE BILL 1068 (1972)

The purpose of this Bill with amendments is to take the profit out of cargo thievery by making persons who steal, fence, or receive stolen property, civilly liable in damages for their acts to for-hire carriers from whom the property was stolen.

The Bill provides such carriers can sue for \$1,000 or three times the amount of actual damages, whichever is higher. Punitive damages are provided to afford carriers who pay the brunt of losses for cargo theft an opportunity to recover losses and costs and at the same time tighten up the shady market area where thieves sell their stolen goods.

Certainly, if a thief does not have a buyer to purchase or "fences" for resale his stolen or "hot" cargo, then his market will dry up.

A recent tort action in Georgia is one example that may aid in discouraging the theft of goods in transit from for-hire carriers. In that case a judgment was entered under a Georgia State law for the value of merchandise stolen from a commercial trucking firm and punitive damages assessed against those who participated in the theft and the owner of a company who purchased the stolen goods.

Briefly, the facts were: The thieves stole \$26,000 worth of wire fencing from a motor carrier, contacted a fence, who by a middle-of-the-night phone call, sold the fencing to the owner of a retail building supply for \$2,600. Subsequently, officers solved the case recovering some of the wire. The two thieves and the fence were tried and found guilty. The final buyer was not brought to trial on criminal charges because of a decision that proving he had knowledge of the theft at the time of his purchase was too difficult to secure a criminal verdict. Under a suit by the plaintiff trucking company, the evidence did support a judgment of actual damages of \$11,877.12 and \$4,375 punitive damages against each of the four defendants, the two thieves, the fence and the buyer.

The fence and the buyer defended the civil action but did not appeal the judgment. Had it not been for the Georgia statute the ultimate purchaser of the stolen goods would have gone untouched.

The number of times a comparable fact pattern has existed where a criminal action may be successfully prosecuted against all

but the final purchaser is well known in the trucking industry.

The Bill places a duty on persons furnishing temporary space in a market place open to the public to keep a record of the name and address of each tenant vendor, a description of the property offered for sale and the name and address of the person from whom the tenant vendor acquired the property offered for sale.

The goal of this provision is to include vacant lot sales, etc. at which stolen goods are often sold and which cannot be effectively policed without the information. Just the requirement to keep these records will discourage these places as fences to sell stolen goods.

RBL:dw

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AMENDMENTS TO SENATE BILL 1068 (ZENOVICH)

AMENDMENT NO. 1

After line 34 insert:

3. Any person, including agents, employees or representatives thereof, who furnishes temporary space in a market place open to the public, whether or not members of the public are required to pay a fee or to acquire a membership in or to join an organization to be entitled to admission to such market place, to a vendor or vendors for the display of personal property for sale in such market place shall maintain on a daily basis a permanent record of:

- a.) The name and address of each vendor;
- b.) A description of the property offered for sale in the market place by each vendor (including the name of the manufacturer and the model name or number if such property is normally sold at retail by such designations and the serial number if such property is normally identified by or given a serial number); and
- c.) The name and address of the person from whom the vendor acquired any property offered for sale in the market place, unless the property is used and has been owned by the vendor for two or more years prior to the date first offered for sale in the market place

Any person, including the agents, employees or representatives thereof, who fails to comply with the record-keeping requirements of this Subsection shall be presumed to be aiding and abetting any vendor or vendors who knowingly offer stolen property for sale in a market place of the type described herein for the purposes of action for damages arising under Subsection 5 of this section.

AMENDMENT 2

Strike lines 35 through 40 on Page 2 and lines 1 through 3 and insert:

4. Any for-hire carrier operating under the jurisdiction of the Public Utilities Commission who has been injured by either a violation of this section or by the failure of any person to comply with its provisions may bring an action for the greater of the following: One Thousand

(a) _____ dollars (\$1,000), costs of suit, and reasonable attorney's fees.

(b) Three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit and reasonable attorney's fees.

When an action is brought for failure to comply with the provisions of this section plaintiff need only show the failure by a preponderance of the evidence.



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AT SACRAMENTO

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List of
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OFFICERS, ATTACHES, COMMITTEES
and
RULES OF THE TWO HOUSES**

**Together With a List of the Members of Con-
gress, Supreme Court, State Officers, Boards,
Commissions, Classification of Counties, Etc.**

1972 REGULAR SESSION

Convened January 3, 1972



DARRELL R. WHITE

Secretary of the Senate

JAMES D. DRISCOLL

Chief Clerk of the Assembly

MJN_117

1972-963 Page 82 of 87

ZENOVICH, George N. (D), 16th District. Elected 1970. Elected to Assembly, 32nd District, in 1962, reelected 1964, 1966, 1968; served as Majority Floor Leader and Chairman, Democratic Caucus. Attorney at Law. Born in Fresno, April 29, 1922. Attended Fresno public schools; Fresno State College, B.A.; Southwestern College of Law, LL.B. Married in Belgrade, Yugoslavia, August 26, 1955, to Vera Sarenac, graduate of Law, Sarajevo University; two children: Ninon and Marina. U.S. Air Force, World War II. Member, California, Fresno County, and American Bar Associations; Musicians Union, Local 47, Los Angeles, and Local 210, Fresno (Life Member); International Academy of Law, Hague, Holland. Committees: Agriculture and Water Resources (Vice Chairman); Elections and Reapportionment; Insurance and Financial Institutions; Judiciary.



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(R., Republican; D., Democratic)

Capitol Address of Senators: State Capitol, Sacramento 95814

Name	Occupation	Party	District	Counties	District Address	Legislative Service
^A Alquist, Alfred E.	Transportation Supervisor	D	13	Santa Clara	777 N. 1st St., San Jose 95112	1963-72
^B Behr, Peter H.	Attorney	R	4	Marin, Napa, Solano	1299 4th St., Rm. 301, San Rafael 94901	1971-72
Beilenson, Anthony	Legislator	D	26	Los Angeles	600 S. San Vicente Blvd., Suite D, Los Angeles 90048	1963-72
Bradley, Clark L.	Attorney	R	14	Santa Clara, Alameda	509 First National Bank Bldg., San Jose 95113	1953-72

W	Wahh, Lawrence E.....	Businessman.....	D	30	Los Angeles	8060 E. Florence Ave., Suite 204, Downey 90240	1967-72
	Way, Howard.....	Legislator.....	R	15	Fresno, Inyo, Madera, Mariposa, Merced, Mono, Tulare	P.O. Box 724, Exeter 93221	1963-72
	Wedworth, James Q.....	Businessman.....	D	31	Los Angeles	8404 S. Crenshaw Blvd., Inglewood 90305	1967-72
	Whetmore, James E.....	Attorney.....	R	35	Los Angeles, Orange	13163 Brookhurst, Garden Grove 92640	1963-72
	Zenovich, George N.....	Attorney.....	D	16	Fresno	1060 Fulton Mall, Suite 1316, Fresno 93721	1962-72

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WHETMORE—(4)—Business and Professions (Vice Chairman), Health and Welfare, Industrial Relations, Transportation.

ZENOVICH—(5)—Agriculture and Water Resources (Vice Chairman), Elections and Reapportionment, Insurance and Financial Institutions, Judiciary, Natural Resources and Wildlife.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to this action. My business address is 555 South Flower Street, 29th Floor, Los Angeles, California 90071.

On **October 30, 2020**, the attached document described as **MOTION FOR JUDICIAL NOTICE BY APPELLANT SIRY INVESTMENTS, L.P.** is being served as follows:

- BY MAIL:** True copies of this document are enclosed in sealed envelopes addressed as noted on the attached Service List. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. The envelope is sealed and placed for collection and mailing on this date following our ordinary practices. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- (BY ELECTRONIC MAIL)** The attached document is being served via electronic transmission to each addressee's electronic mail address as noted on the attached Service List via TrueFiling.

Executed on **October 30, 2020** at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

By: /s/Rolando Castellanos
Rolando Castellanos

SERVICE LIST

<p>Richard L. Knickerbocker Knickerbocker Law The Water Garden 2425 Olympic Boulevard, Suite 4000 W Santa Monica, CA 90404 Tel: (310) 260-9060 Fax: (310) 260-9063 Email: knicklaw@gmail.com</p>	<p>Attorneys for Defendants</p> <p>Saeed Farkhondehpour, an individual and Trustee of the 1993 Farkhondehpour Family Trust, 241 E. 5th St. Partnership, L.P., and 416 South Wall Street, Inc.</p>
<p>Gregory D. Hagen Wilson, Elser, Moskowitz, Edelman & Dicker, LLP 401 West A Street, Suite 1900 San Diego, CA 92101 T: (619) 881-3306 F: (619) 321-6201 gregory.hagen@wilsonelser.com</p>	<p>Attorneys for Plaintiff</p> <p>Siry Investment, L.P.</p>
<p>Robert A. Olson Edward L. Xanders Greines, Martin, Stein & Richland LLP 5900 Wilshire Boulevard 12th Floor Los Angeles, CA 90036 Tel: 310-859-7811 Fax: 310-276-5261 Email: rolson@gmsr.com exanders@gmsr.com</p>	<p>Attorneys for Former Defendants (not participating in Supreme Court)</p> <p>Morad Neman, an individual and Trustee of the Neman Family Irrevocable Trust and the Yedidia Investments Defined Benefit Plan</p>

<p>David R. Fisher Jeffrey R. Klein Fisher & Wolfe, LLP 9401 Wilshire Boulevard Suite 640 Beverly Hills, CA 90212-2913 Tel: 310-278-4300 Fax: 310-278-5430 drf@fisherwolfe.com</p>	<p>Attorneys for Former Defendants (not participating in Supreme Court)</p> <p>Morad Neman, an individual and Trustee of the Neman Family Irrevocable Trust and the Yedidia Investments Defined Benefit Plan</p>
<p>Bryan D. Sampson Law Office of Bryan D. Sampson 9048 Brooks Road, Suite 322 Windsor, CA 95492 bsampson@sampsonlaw.net Tel: (619) 708-9420</p>	<p>Former Attorney for Plaintiff</p>
<p>Supreme Court of California 350 McAllister Street San Francisco, California 94102 Attn: Office of the Clerk Tel: (415) 865-7000</p>	<p><i>By True Filing</i></p>
<p>Hon. Stephanie Bowick Los Angeles Superior Court Stanley Mosk Courthouse 111 North Hill Street Los Angeles, California 90012</p>	<p>Case No. BC 372362</p> <p><i>By Mail</i></p>
<p>Court of Appeal Second District, Division Two Ronald Reagan State Building 300 S. Spring Street Second Floor, North Tower Los Angeles, CA 90013 Tel: (213) 830-7000</p>	<p>B277750</p> <p><i>By True Filing</i></p>

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STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

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Case Number: **S262081**

Lower Court Case Number: **B277750**

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10/30/2020

Date

/s/Robert Cooper

Signature

Cooper, Robert (209641)

Last Name, First Name (PNum)

Wilson Elser - Los Angeles

Law Firm