

## CONCURRENCE IN SENATE AMENDMENTS

AB 1969 (Blanca Rubio)

As Amended August 25, 2020

Majority vote

**SUMMARY:**

Eliminates the requirement that the name and address of a seller or pledger of secondhand goods be reported to law enforcement when the seller or pledger verifies their identity with a Matricula Consular, and requires the state's database of secondhand property transactions to direct law enforcement to the dealer to obtain the seller or pledger's identity.

**The Senate Amendments:**

Delay implementation of this bill until January 1, 2023.

**COMMENTS:**

*California Pawn and Secondhand Dealer System (CAPSS).* California has long regulated sellers of secondhand goods. In 1937, a law was enacted to require secondhand dealers to report new acquisitions of property to local law enforcement so that these items could potentially be matched with stolen goods. In 1959, this requirement was combined with a requirement that secondhand dealers wait 30 days before selling an item in order to provide law enforcement with time to investigate possible matches. The reporting requirement was also modified that year to consist of a daily paper report to both local law enforcement agencies and the Department of Justice (DOJ).

In 2000, legislation was passed establishing a framework for secondhand dealers to make their required reports electronically; however, this system was not funded for over a decade. In the meantime, secondhand dealers submitted paper works on a form referred to as the JUS 123, which would typically be delivered to local law enforcement and was considered an inefficient way of investigating stolen property crimes. Legislation in 2012, championed by former Assembly Member Bill Duplissea, ultimately funded a new statewide electronic system known as CAPSS, operated by the DOJ and paid for through increased licensing fees obtained from secondhand dealers who were willing to contribute to the cost of a more streamlined electronic reporting system.

Upon completion of the CAPSS database, a number of secondhand dealers complained that the system was overly prescriptive in terms of how an item must be described. The intent of the DOJ's policy was to more effectively link secondhand dealers' goods to the automated property system containing records of stolen goods; however, a number of stores had difficulty reporting to the database through a batch upload process. As a result, the Attorney General negotiated modifications to statute to allow secondhand dealers more flexibility in the language used to describe an item. Virtually all secondhand dealers falling under the property reporting requirements now do so electronically through CAPSS, making it significantly easier for law enforcement to identify stolen property through an interjurisdictional electronic database.

*Undocumented Sellers and Pledgers.* As part of their report to CAPSS, secondhand dealers are required to provide the name and address of the seller or pledger of the property. The identity of the seller or pledger must have been verified by the dealer. Documents confirming the identity of the seller or pledger may include any of the following documents, provided they are

currently valid or have been issued within five years and contains a photograph or description of the person named on it, and, where applicable, is signed by the person, and bears a serial or other identifying number:

- 1) A passport of the United States.
- 2) A driver's license issued by any state or Canada.
- 3) An identification card issued by any state.
- 4) An identification card issued by the United States.
- 5) A passport from any other country in addition to another item of identification bearing an address.
- 6) A Matricula Consular in addition to another item of identification bearing an address.

Because CAPSS is made widely available to law enforcement agencies, it is conceivable that sworn officers employed by the federal agency Immigration and Customs Enforcement (ICE) would be authorized to perform queries and obtain reports from the system. According to the author, there is some anecdotal evidence that ICE agents have used CAPSS reports to identify potential subjects of interest in immigration enforcement activities, since many undocumented communities rely on a Matricula Consular to prove their identities.

Senate Bill 54 (the California Values Act) of 2017 presumably already prohibits this information from being shared with federal immigration agencies. Nevertheless, the author argues that sellers and pledgers of secondhand property who verify their identity using a Matricula Consular should have their personally identifying information removed from CAPSS altogether to eliminate the risk of the database being used for immigration enforcement investigations. This bill would still make that information available to California law enforcement agencies upon request, but would prevent identities from being directly harvested from CAPSS.

#### **According to the Author:**

"Regrettably, California has been the subject of increased ICE raids since 2016. The Department of Justice has adhered to its mission to keep this law enforcement database closed and secure. However, it is possible that one or more agencies are making the legal use of the Matricula Consular in common purchases, known to ICE. The obligation to capture and retain all the required information remains as it is in current law however we must continue to protect advocate for our communities that are under a constant state of stress from threats of deportation. AB 1969 ensures that the necessary information required for purchases using the Matricula Consular through the California Pawn and Secondhand-Dealer System (CAPSS) is safely retained while preventing the passing of information specifically name and residence to outside agencies."

#### **Arguments in Support:**

The *California Pawnbrokers Association (CAPA)* is sponsoring this bill. According to CAPA, "AB 1969 is a very important measure that seeks to keep personal information for individuals who use a Matricula Consular as a form of identification during a secondhand/pawn transaction confidential, unless law enforcement has a legitimate need for that information through a CAPSS reported property transaction."

**Arguments in Opposition:**

The *California State Sheriffs' Association (CSSA)* opposes this bill. The CSSA argues that the bill "creates additional work for California law enforcement who are addressing state crime issues related to the property or transaction in question. California sheriffs have no desire to enforce immigration law, but by requiring a secondary process to ascertain information about certain property and transactions that would be electronically available but for this proposed requirement, AB 1969 creates new burdens on California law enforcement officers and agencies that are investigating crimes."

**FISCAL COMMENTS:**

According to the Senate Appropriations Committee, costs pressures in the hundreds of thousands of dollars for the Department of Justice to implement this bill.

**VOTES:****ASM BUSINESS AND PROFESSIONS: 16-1-2**

**YES:** Low, Brough, Arambula, Bloom, Chen, Chiu, Eggman, Gipson, Gloria, Grayson, Holden, Irwin, McCarty, Medina, Mullin, Ting

**NO:** Obernolte

**ABS, ABST OR NV:** Cunningham, Fong

**ASM APPROPRIATIONS: 12-2-4**

**YES:** Gonzalez, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Eduardo Garcia, McCarty, Robert Rivas

**NO:** Megan Dahle, Diep

**ABS, ABST OR NV:** Bigelow, Fong, Petrie-Norris, Voepel

**ASSEMBLY FLOOR: 54-14-11**

**YES:** Aguiar-Curry, Arambula, Berman, Bloom, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooley, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Patterson, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

**NO:** Bigelow, Choi, Cunningham, Megan Dahle, Diep, Gallagher, Gray, Kiley, Lackey, Mathis, Obernolte, Petrie-Norris, Quirk-Silva, Voepel

**ABS, ABST OR NV:** Bauer-Kahan, Boerner Horvath, Chen, Cooper, Flora, Fong, Frazier, Mayes, Muratsuchi, Smith, Waldron

**SENATE FLOOR: 32-7-1**

**YES:** Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Chang, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

**NO:** Bates, Borgeas, Dahle, Melendez, Moorlach, Morrell, Nielsen

**ABS, ABST OR NV:** Jones

**UPDATED:**

VERSION: August 25, 2020

CONSULTANT: Robert Sumner / B. & P. / (916) 319-3301

FN: 0003640