

Consumer Guide to VEHICLE¹ Repossession

DRAFT

REQUIREMENTS FOR DOING BUSINESS

Repossession Agencies and their employees must be licensed by the Bureau of Security and Investigative Services (Bureau or BSIS) to engage in business or accept employment to locate or recover vehicles which are subject to a security agreement.²

Note: In some cases, a bank, financial lender, or other legal owner will send their own employees to recover the vehicle. Individuals employed directly by a bank, lender, or the legal owner of the vehicle are not required to be licensed as repossession agency employees.³

HOW REPOSSESSIONS WORK

When a person signs a contract to buy a vehicle¹ pursuant to a security agreement (lease or loan agreement), they agree to make payments and meet the terms of the contract. When a person has breached the contract (e.g., being past due on the vehicle loan or lease payments, failure to maintain insurance, etc.) and efforts to correct the violation fail, the bank, financial lender, legal owner or their agents can contract with Repossession Agencies to locate and repossess the vehicle subject to the security agreement which contains the repossession clause.

Many of the activities carried out before, during and after the repossession are regulated by state and federal laws.

WHAT YOU SHOULD KNOW IF YOUR VEHICLE IS BEING REPOSSESSED

1. In most cases, the person carrying out the repossession must hold a BSIS license and identification card to legally repossess a vehicle. Ask to see the license/identification card.
2. Having a vehicle repossessed can be stressful. Avoiding confrontational words and actions helps reduce the potential of the situation escalating.
- A repossession licensee or its agent can repossess a vehicle in public areas with no restricted access. A repossession licensee or its agent cannot enter a private building or a secured area without the consent of the property owner or the person in lawful control of the private property to repossess a vehicle. A secured area means any place that is fenced and locked. For example, a repossession agent or licensee:
 - Can enter a parking lot or garage open to the public with unrestricted access, even if it is privately owned, to repossess a vehicle.
 - Can enter a gated community with unrestricted entrance(s) and open to the public to repossess a vehicle.

- c. Cannot enter a gated community with entrance(s) that restrict public access to repossess a vehicle without the consent of the property owner or person in lawful control of the property.
 - d. Cannot enter the garage of a person's residential home to repossess a vehicle without consent of the property owner or person in lawful control of the property (e.g., renter).
 - e. Cannot enter the private property of a person's residential home that is surrounded by a secured fence and gate to repossess a vehicle without the consent of the property owner or person in lawful control of the property (e.g., renter).
4. A repossession licensee or its agent CAN repossess your vehicle whether or not you are present.
5. A repossession licensee or its agent IS NOT REQUIRED to allow you to remove your personal property from the vehicle at the time of the repossession. However, it is not prohibited so you should ask if you can take your personal property. The licensee or its agent MUST inventory all personal effects left in the vehicle within specified timeframes and store your personal effects for a minimum of 60 days. However, deadly weapons and dangerous drugs will be inventoried and turned over to law enforcement. Also, perishable (e.g., food), flammable, or hazardous items may be disposed after being inventoried.⁴
6. A repossession agency may charge you a daily fee for storage of your personal property. This fee must be disclosed on the Notice of Seizure the licensee is required to provide you after the repossession (see Item 8).⁵
7. A repossession agency MAY discard any personal effects not claimed after 60 days, but must keep the inventory list along with information on how the effects were disposed on file for four (4) years.⁴
8. A repossession agency MUST provide you with a Notice of Seizure within 48 hours of the repossession by mail or personal service. If the 48-hour period includes a Saturday, Sunday or a postal holiday, the Notice must be provided within 96 hours. The Notice must include:⁵
 - a. The name, address, and telephone number of the vehicle's legal owner.
 - b. The name, address and telephone number of the repossession agency.
 - c. Statements and disclosures as required by law about licensure requirements for repossession agencies and their employees, timeframes in which the notice is required to be provided to you, damage to the vehicle during the repossession or while in the possession of the repossession agency, and if applicable, information about the handling of special license plates.
 - d. The charge for storing your personal effects.

9. A licensed repossession agency MUST display its license number **or** the name of its business name, address and telephone number on both the left and right side of its tow vehicle.⁶
10. A repossession licensee or its agent MUST notify local law enforcement within one hour of a repossession. If contact is not made, continued attempts are required until the repossession is recorded with the local agency. Written notice to local law enforcement must also be made within one business day of repossession.⁷

REINSTATING A VEHICLE CONTRACT AFTER REPOSSESSION

The Bureau has no jurisdiction over whether or not the vehicle's legal owner will reinstate your contract. If you obtain a reinstatement, you will need to provide the Repossession Agency a release from the legal owner stating that you may redeem your vehicle **and** proof of having paid the administrative filing fee to the police or sheriff's office, where the repossession was reported.⁸

Please note that in some cases you may not get your vehicle back after it has been repossessed.

LICENSE SEARCH

To verify a repossession agency license or repossession employee registration, visit www.breeze.ca.gov and click on "verify a license."

FILE A COMPLAINT

To file a complaint against a repossession agency or employee, you may visit www.breeze.ca.gov and select "File a Complaint." Or contact the Department of Consumer Affairs' Consumer Information Center at (800) 952-5210 and request a complaint form.

¹ While vehicles are the most commonly repossessed item of property, any personal property which is subject to a security agreement, furniture, appliances, jewelry, etc., can be repossessed. Personal property subject to a security agreement and which can be repossessed is called "collateral" under the law. The laws regarding **licensure** apply to all types of collateral repossession.

² BPC 7500.2

³ BPC 7500.3

⁴ BPC 7507.9

⁵ BPC 7507.10; usually within 48 hours, but in all cases in no less than 96 hours after the repossession takes place.

⁶ VC 27907

⁷ VC 28

⁸ GC 26751 & 41612; \$15.00 when paid to the local law enforcement agency directly, but may increase to \$20.00 if paid directly to the repossession agency or legal owner instead of the local law enforcement agency directly.

BPC: Business and Professions Code

VC: Vehicle Code

GC: Government Code