

CALIFORNIA CODES
PENAL CODE
SECTION 484-502.9

484. (a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

(b) (1) Except as provided in Section 10855 of the Vehicle **Code**, where a person has leased or rented the personal property of another person pursuant to a written contract, and that property has a value greater than one thousand dollars (\$1,000) and is not a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 10 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(2) Except as provided in Section 10855 of the Vehicle **Code**, where a person has leased or rented the personal property of another person pursuant to a written contract, and where the property has a value no greater than one thousand dollars (\$1,000), or where the property is a commonly used household item, intent to commit theft by fraud shall be rebuttably presumed if the person fails to return the personal property to its owner within 20 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(c) Notwithstanding the provisions of subdivision (b), if one presents with criminal intent identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental of the personal property of another, the presumption created herein shall apply upon the failure of the lessee to return the rental property at the expiration of the lease or rental agreement, and no written demand for the return of the leased or rented property shall be required.

(d) The presumptions created by subdivisions (b) and (c) are presumptions affecting the burden of producing evidence.

(e) Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of

the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.

484.1. (a) Any person who knowingly gives false information or provides false verification as to the person's true identity or as to the person's ownership interest in property or the person's authority to sell property in order to receive money or other valuable consideration from a pawnbroker or secondhand dealer and who receives money or other valuable consideration from the pawnbroker or secondhand dealer is guilty of theft.

(b) Upon conviction of the offense described in subdivision (a), the court may require, in addition to any sentence or fine imposed, that the defendant make restitution to the pawnbroker or secondhand dealer in an amount not exceeding the actual losses sustained pursuant to the provisions of subdivision (c) of Section 13967 of the Government **Code**, as operative on or before September 28, 1994, if the defendant is denied probation, or Section 1203.04, as operative on or before August 2, 1995, if the defendant is granted probation or Section 1202.4.

(c) Upon the setting of a court hearing date for sentencing of any person convicted under this section, the probation officer, if one is assigned, shall notify the pawnbroker or secondhand dealer or coin dealer of the time and place of the hearing.

484b. Any person who receives money for the purpose of obtaining or paying for services, labor, materials or equipment and willfully fails to apply such money for such purpose by either willfully failing to complete the improvements for which funds were provided or willfully failing to pay for services, labor, materials or equipment provided incident to such construction, and wrongfully diverts the funds to a use other than that for which the funds were received, shall be guilty of a public offense and shall be punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both that fine and that imprisonment if the amount diverted is in excess of two thousand three hundred fifty dollars (\$2,350). If the amount diverted is less than or equal to two thousand three hundred fifty dollars (\$2,350), the person shall be guilty of a misdemeanor.

484c. Any person who submits a false voucher to obtain construction loan funds and does not use the funds for the purpose for which the claim was submitted is guilty of embezzlement.

484d. As used in this section and Sections 484e to 484j, inclusive:

(1) "Cardholder" means any person to whom an access card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of an access card to another person.

(2) "Access card" means any card, plate, **code**, account number, or other means of account access that can be used, alone or in conjunction with another access card, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by a paper instrument.

(3) "Expired access card" means an access card which shows on its face it has elapsed.

(4) "Card issuer" means any person who issues an access card or the agent of that person with respect to that card.

(5) "Retailer" means every person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of an access card by a cardholder.

(6) An access card is "incomplete" if part of the matter other than the signature of the cardholder which an issuer requires to appear on the access card before it can be used by a cardholder has not been stamped, embossed, imprinted, or written on it.

(7) "Revoked access card" means an access card which is no longer authorized for use by the issuer, that authorization having been suspended or terminated and written notice thereof having been given to the cardholder.

(8) "Counterfeit access card" means any access card that is counterfeit, fictitious, altered, or forged, or any false representation or depiction of an access card or a component thereof.

(9) "Traffic" means to transfer or otherwise dispose of property to another, or to obtain control of property with intent to transfer or dispose of it to another.

(10) "Card making equipment" means any equipment, machine, plate, mechanism, impression, or other device designed, used, or intended to be used to produce an access card.

484e. (a) Every person who, with intent to defraud, sells, transfers, or conveys, an access card, without the cardholder's or issuer's consent, is guilty of grand theft.

(b) Every person, other than the issuer, who within any consecutive 12-month period, acquires access cards issued in the names of four or more persons which he or she has reason to know were taken or retained under circumstances which constitute a violation of subdivision (a), (c), or (d) is guilty of grand theft.

(c) Every person who, with the intent to defraud, acquires or retains possession of an access card without the cardholder's or issuer's consent, with intent to use, sell, or transfer it to a person other than the cardholder or issuer is guilty of petty theft.

(d) Every person who acquires or retains possession of access card account information with respect to an access card validly issued to another person, without the cardholder's or issuer's consent, with the intent to use it fraudulently, is guilty of grand theft.

484f. (a) Every person who, with the intent to defraud, designs, makes, alters, or embosses a counterfeit access card or utters or otherwise attempts to use a counterfeit access card is guilty of forgery.

(b) A person other than the cardholder or a person authorized by him or her who, with the intent to defraud, signs the name of another or of a fictitious person to an access card, sales slip, sales draft, or instrument for the payment of money which evidences an access card transaction, is guilty of forgery.

484g. Every person who, with the intent to defraud, (a) uses, for the purpose of obtaining money, goods, services, or anything else of value, an access card or access card account information that has been altered, obtained, or retained in violation of Section 484e or 484f, or an access card which he or she knows is forged, expired, or revoked, or (b) obtains money, goods, services, or anything else of value by representing without the consent of the cardholder that he or she is the holder of an access card and the card has not in fact been issued, is guilty of theft. If the value of all money, goods,

services, and other things of value obtained in violation of this section exceeds nine hundred fifty dollars (\$950) in any consecutive six-month period, then the same shall constitute grand theft.

484h. Every retailer or other person who, with intent to defraud:

(a) Furnishes money, goods, services or anything else of value upon presentation of an access card obtained or retained in violation of Section 484e or an access card which he or she knows is a counterfeit access card or is forged, expired, or revoked, and who receives any payment therefor, is guilty of theft. If the payment received by the retailer or other person for all money, goods, services, and other things of value furnished in violation of this section exceeds nine hundred fifty dollars (\$950) in any consecutive six-month period, then the same shall constitute grand theft.

(b) Presents for payment a sales slip or other evidence of an access card transaction, and receives payment therefor, without furnishing in the transaction money, goods, services, or anything else of value that is equal in value to the amount of the sales slip or other evidence of an access card transaction, is guilty of theft. If the difference between the value of all money, goods, services, and anything else of value actually furnished and the payment or payments received by the retailer or other person therefor upon presentation of a sales slip or other evidence of an access card transaction exceeds nine hundred fifty dollars (\$950) in any consecutive six-month period, then the same shall constitute grand theft.

484i. (a) Every person who possesses an incomplete access card, with intent to complete it without the consent of the issuer, is guilty of a misdemeanor.

(b) Every person who, with the intent to defraud, makes, alters, varies, changes, or modifies access card account information on any part of an access card, including information encoded in a magnetic stripe or other medium on the access card not directly readable by the human eye, or who authorizes or consents to alteration, variance, change, or modification of access card account information by another, in a manner that causes transactions initiated by that access card to be charged or billed to a person other than the cardholder to whom the access card was issued, is guilty of forgery.

(c) Every person who designs, makes, possesses, or traffics in card making equipment or incomplete access cards with the intent that the equipment or cards be used to make counterfeit access cards, is punishable by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison.

484j. Any person who publishes the number or **code** of an existing, canceled, revoked, expired or nonexistent access card, personal identification number, computer password, access **code**, debit card number, bank account number, or the numbering or coding which is employed in the issuance of access cards, with the intent that it be used or with knowledge or reason to believe that it will be used to avoid the payment of any lawful charge, or with intent to defraud or aid another in defrauding, is guilty of a misdemeanor. As used in this section, "publishes" means the communication of information to any one or more persons, either orally, in person or by telephone, radio or television, or on a computer network or computer bulletin board, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine

article, or book.

485. One who finds lost property under circumstances which give him knowledge of or means of inquiry as to the true owner, and who appropriates such property to his own use, or to the use of another person not entitled thereto, without first making reasonable and just efforts to find the owner and to restore the property to him, is guilty of theft.

486. Theft is divided into two degrees, the first of which is termed grand theft; the second, petty theft.

487. Grand theft is theft committed in any of the following cases:

(a) When the money, labor, or real or personal property taken is of a value exceeding nine hundred fifty dollars (\$950), except as provided in subdivision (b).

(b) Notwithstanding subdivision (a), grand theft is committed in any of the following cases:

(1) (A) When domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding two hundred fifty dollars (\$250).

(B) For the purposes of establishing that the value of domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops under this paragraph exceeds two hundred fifty dollars (\$250), that value may be shown by the presentation of credible evidence which establishes that on the day of the theft domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops of the same variety and weight exceeded two hundred fifty dollars (\$250) in wholesale value.

(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding two hundred fifty dollars (\$250).

(3) Where the money, labor, or real or personal property is taken by a servant, agent, or employee from his or her principal or employer and aggregates nine hundred fifty dollars (\$950) or more in any 12 consecutive month period.

(c) When the property is taken from the person of another.

(d) When the property taken is any of the following:

(1) An automobile, horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig.

(2) A firearm.

487a. (a) Every person who shall feloniously steal, take, transport or carry the carcass of any bovine, caprine, equine, ovine, or suine animal or of any mule, jack or jenny, which is the personal property of another, or who shall fraudulently appropriate such property which has been entrusted to him, is guilty of grand theft.

(b) Every person who shall feloniously steal, take, transport, or carry any portion of the carcass of any bovine, caprine, equine, ovine, or suine animal or of any mule, jack, or jenny, which has been killed without the consent of the owner thereof, is guilty of grand theft.

487b. Every person who converts real estate of the value of two hundred fifty dollars (\$250) or more into personal property by severance from the realty of another, and with felonious intent to do so, steals, takes, and carries away that property is guilty of grand theft and is punishable by imprisonment in the state prison.

487c. Every person who converts real estate of the value of less than two hundred fifty dollars (\$250) into personal property by severance from the realty of another, and with felonious intent to do so steals, takes, and carries away that property is guilty of petty theft and is punishable by imprisonment in the county jail for not more than one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

487d. Every person who feloniously steals, takes, and carries away, or attempts to take, steal, and carry from any mining claim, tunnel, sluice, undercurrent, riffle box, or sulfurate machine, another's gold dust, amalgam, or quicksilver is guilty of grand theft and is punishable by imprisonment in the state prison.

487e. Every person who feloniously steals, takes, or carries away a dog of another which is of a value exceeding nine hundred fifty dollars (\$950) is guilty of grand theft.

487f. Every person who feloniously steals, takes, or carries away a dog of another which is of a value not exceeding nine hundred fifty dollars (\$950) is guilty of petty theft.

487g. Every person who steals or maliciously takes or carries away any animal of another for purposes of sale, medical research, slaughter, or other commercial use, or who knowingly, by any false representation or pretense, defrauds another person of any animal for purposes of sale, medical research, slaughter, or other commercial use is guilty of a public offense punishable by imprisonment in a county jail not exceeding one year or in the state prison.

487h. (a) Every person who steals, takes, or carries away cargo of another, if the cargo taken is of a value exceeding nine hundred fifty dollars (\$950), except as provided in Sections 487, 487a, and 487d, is guilty of grand theft.

(b) For the purposes of this section, "cargo" means any goods, wares, products, or manufactured merchandise that has been loaded into a trailer, railcar, or cargo container, awaiting or in transit.

487i. Any person who defrauds a housing program of a public housing authority of more than four hundred dollars (\$400) is guilty of grand theft.

488. Theft in other cases is petty theft.

489. Grand theft is punishable as follows:

(a) When the grand theft involves the theft of a firearm, by imprisonment in the state prison for 16 months, 2, or 3 years.

(b) In all other cases, by imprisonment in a county jail not exceeding one year or in the state prison.

490. Petty theft is punishable by fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or both.

490a. Wherever any law or statute of this state refers to or mentions larceny, embezzlement, or stealing, said law or statute shall hereafter be read and interpreted as if the word "theft" were substituted therefor.

490.1. (a) Petty theft, where the value of the money, labor, real or personal property taken is of a value which does not exceed fifty dollars (\$50), may be charged as a misdemeanor or an infraction, at the discretion of the prosecutor, provided that the person charged with the offense has no other theft or theft-related conviction.

(b) Any offense charged as an infraction under this section shall be subject to the provisions of subdivision (d) of Section 17 and Sections 19.6 and 19.7.

A violation which is an infraction under this section is punishable by a fine not exceeding two hundred fifty dollars (\$250).

490.5. (a) Upon a first conviction for petty theft involving merchandise taken from a merchant's premises or a book or other library materials taken from a library facility, a person shall be punished by a mandatory fine of not less than fifty dollars (\$50) and not more than one thousand dollars (\$1,000) for each such violation; and may also be punished by imprisonment in the county jail, not exceeding six months, or both such fine and imprisonment.

(b) When an unemancipated minor's willful conduct would constitute petty theft involving merchandise taken from a merchant's premises or a book or other library materials taken from a library facility, any merchant or library facility who has been injured by that conduct may bring a civil action against the parent or legal guardian having control and custody of the minor. For the purposes of those actions the misconduct of the unemancipated minor shall be imputed to the parent or legal guardian having control and custody of the minor. The parent or legal guardian having control or custody of an unemancipated minor whose conduct violates this subdivision shall be jointly and severally liable with the minor to a merchant or to a library facility for damages of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), plus costs. In addition to the foregoing damages, the parent or legal guardian shall be jointly and severally liable with the minor to the merchant for the retail value of the merchandise if it is not recovered in a merchantable condition, or to a library facility for the fair market value of its book or other library materials. Recovery of these damages may be had in addition to, and is not limited by, any other provision of law which limits the liability of a parent or legal guardian for the tortious conduct of a minor. An action for recovery of damages, pursuant to this subdivision, may be brought in small claims court if the total damages do not exceed the jurisdictional limit of that

court, or in any other appropriate court; however, total damages, including the value of the merchandise or book or other library materials, shall not exceed five hundred dollars (\$500) for each action brought under this section.

The provisions of this subdivision are in addition to other civil remedies and do not limit merchants or other persons to elect to pursue other civil remedies, except that the provisions of Section 1714.1 of the Civil Code shall not apply herein.

(c) When an adult or emancipated minor has unlawfully taken merchandise from a merchant's premises, or a book or other library materials from a library facility, the adult or emancipated minor shall be liable to the merchant or library facility for damages of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), plus costs. In addition to the foregoing damages, the adult or emancipated minor shall be liable to the merchant for the retail value of the merchandise if it is not recovered in merchantable condition, or to a library facility for the fair market value of its book or other library materials. An action for recovery of damages, pursuant to this subdivision, may be brought in small claims court if the total damages do not exceed the jurisdictional limit of such court, or in any other appropriate court. The provisions of this subdivision are in addition to other civil remedies and do not limit merchants or other persons to elect to pursue other civil remedies.

(d) In lieu of the fines prescribed by subdivision (a), any person may be required to perform public services designated by the court, provided that in no event shall any such person be required to perform less than the number of hours of such public service necessary to satisfy the fine assessed by the court as provided by subdivision (a) at the minimum wage prevailing in the state at the time of sentencing.

(e) All fines collected under this section shall be collected and distributed in accordance with Sections 1463 and 1463.1 of the Penal Code; provided, however, that a county may, by a majority vote of the members of its board of supervisors, allocate any amount up to, but not exceeding 50 percent of such fines to the county superintendent of schools for allocation to local school districts. The fines allocated shall be administered by the county superintendent of schools to finance public school programs, which provide counseling or other educational services designed to discourage shoplifting, theft, and burglary. Subject to rules and regulations as may be adopted by the Superintendent of Public Instruction, each county superintendent of schools shall allocate such funds to school districts within the county which submit project applications designed to further the educational purposes of this section. The costs of administration of this section by each county superintendent of schools shall be paid from the funds allocated to the county superintendent of schools.

(f) (1) A merchant may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the merchant has probable cause to believe the person to be detained is attempting to unlawfully take or has unlawfully taken merchandise from the merchant's premises.

A theater owner may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the theater owner has probable cause to believe the person to be detained is attempting to operate a video recording device within the premises of a motion picture theater without the authority of the owner of the theater.

A person employed by a library facility may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the person employed by a library facility has probable cause to believe the person to be detained is attempting to unlawfully remove or has unlawfully removed books or library materials from the premises of the library facility.

(2) In making the detention a merchant, theater owner, or a person

employed by a library facility may use a reasonable amount of nondeadly force necessary to protect himself or herself and to prevent escape of the person detained or the loss of tangible or intangible property.

(3) During the period of detention any items which a merchant or theater owner, or any items which a person employed by a library facility has probable cause to believe are unlawfully taken from the premises of the merchant or library facility, or recorded on theater premises, and which are in plain view may be examined by the merchant, theater owner, or person employed by a library facility for the purposes of ascertaining the ownership thereof.

(4) A merchant, theater owner, a person employed by a library facility, or an agent thereof, having probable cause to believe the person detained was attempting to unlawfully take or has taken any item from the premises, or was attempting to operate a video recording device within the premises of a motion picture theater without the authority of the owner of the theater, may request the person detained to voluntarily surrender the item or recording. Should the person detained refuse to surrender the recording or item of which there is probable cause to believe has been recorded or unlawfully taken from the premises, or attempted to be recorded or unlawfully taken from the premises, a limited and reasonable search may be conducted by those authorized to make the detention in order to recover the item. Only packages, shopping bags, handbags or other property in the immediate possession of the person detained, but not including any clothing worn by the person, may be searched pursuant to this subdivision. Upon surrender or discovery of the item, the person detained may also be requested, but may not be required, to provide adequate proof of his or her true identity.

(5) If any person admitted to a theater in which a motion picture is to be or is being exhibited, refuses or fails to give or surrender possession or to cease operation of any video recording device that the person has brought into or attempts to bring into that theater, then a theater owner shall have the right to refuse admission to that person or request that the person leave the premises and shall thereupon offer to refund and, unless that offer is refused, refund to that person the price paid by that person for admission to that theater. If the person thereafter refuses to leave the theater or cease operation of the video recording device, then the person shall be deemed to be intentionally interfering with and obstructing those attempting to carry on a lawful business within the meaning of Section 602.1.

(6) A peace officer who accepts custody of a person arrested for an offense contained in this section may, subsequent to the arrest, search the person arrested and his or her immediate possessions for any item or items alleged to have been taken.

(7) In any civil action brought by any person resulting from a detention or arrest by a merchant, it shall be a defense to such action that the merchant detaining or arresting such person had probable cause to believe that the person had stolen or attempted to steal merchandise and that the merchant acted reasonably under all the circumstances.

In any civil action brought by any person resulting from a detention or arrest by a theater owner or person employed by a library facility, it shall be a defense to that action that the theater owner or person employed by a library facility detaining or arresting that person had probable cause to believe that the person was attempting to operate a video recording device within the premises of a motion picture theater without the authority of the owner of the theater or had stolen or attempted to steal books or library materials and that the person employed by a library facility acted reasonably under all the circumstances.

(g) As used in this section:

(1) "Merchandise" means any personal property, capable of manual delivery, displayed, held or offered for retail sale by a merchant.

(2) "Merchant" means an owner or operator, and the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises used for the retail purchase or sale of any personal property capable of manual delivery.

(3) "Theater owner" means an owner or operator, and the agent, employee, consignee, lessee, or officer of an owner or operator, of any premises used for the exhibition or performance of motion pictures to the general public.

(4) The terms "book or other library materials" include any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual material in any format, magnetic or other tape, electronic data-processing record, artifact, or other documentary, written or printed material regardless of physical form or characteristics, or any part thereof, belonging to, on loan to, or otherwise in the custody of a library facility.

(5) The term "library facility" includes any public library; any library of an educational, historical or eleemosynary institution, organization or society; any museum; any repository of public records.

(h) Any library facility shall post at its entrance and exit a conspicuous sign to read as follows:

"IN ORDER TO PREVENT THE THEFT OF BOOKS AND LIBRARY MATERIALS, STATE LAW AUTHORIZES THE DETENTION FOR A REASONABLE PERIOD OF ANY PERSON USING THESE FACILITIES SUSPECTED OF COMMITTING "LIBRARY THEFT" (**PENAL CODE SECTION 490.5**)."

490.6. (a) A person employed by an amusement park may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the person employed by the amusement park has probable cause to believe the person to be detained is violating lawful amusement park rules.

(b) If any person admitted to an amusement park refuses or fails to follow lawful amusement park rules, after being so informed, then an amusement park employee may request that the person either comply or leave the premises. If the person refuses to leave the premises or comply with lawful park rules, then the person shall be deemed to be intentionally interfering with and obstructing those attempting to carry on a lawful business within the meaning of Section 602.1.

(c) In any civil action brought by any person resulting from a detention or an arrest by a person employed by an amusement park, it shall be a defense to that action that the amusement park employee detaining or arresting the person had probable cause to believe that the person was not following lawful amusement park rules and that the amusement park employee acted reasonably under all the circumstances.

490.7. (a) The Legislature finds that free newspapers provide a key source of information to the public, in many cases providing an important alternative to the news and ideas expressed in other local media sources. The Legislature further finds that the unauthorized taking of multiple copies of free newspapers, whether done to sell them to recycling centers, to injure a business competitor, to deprive others of the opportunity to read them, or for any other reason, injures the rights of readers, writers, publishers, and advertisers, and impoverishes the marketplace of ideas in California.

(b) No person shall take more than twenty-five (25) copies of the current issue of a free or complimentary newspaper if done with the intent to do one or more of the following:

(1) Recycle the newspapers for cash or other payment.

(2) Sell or barter the newspaper.

(3) Deprive others of the opportunity to read or enjoy the newspaper.

(4) Harm a business competitor.

(c) This section does not apply to the owner or operator of the newsrack in which the copies are placed, the owner or operator of the property on which the newsrack is placed, the publisher, the printer, the distributor, the deliverer of the newspaper, or to any advertiser in that issue, or to any other person who has the express permission to do so from any of these entities.

(d) Any newspaper publisher may provide express permission to take more than twenty-five (25) copies of the current issue of a free or complimentary newspaper by indicating on the newsrack or in the newspaper itself, that people may take a greater number of copies if they wish.

(e) A first violation of subdivision (b) shall be an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250). A second or subsequent violation shall be punishable as an infraction or a misdemeanor. A misdemeanor conviction under this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment of up to 10 days in a county jail, or by both that fine and imprisonment. The court may order community service in lieu of the punishment otherwise provided for an infraction or misdemeanor in the amount of 20 hours for an infraction, and 40 hours for a misdemeanor. A misdemeanor conviction under this section shall not constitute a conviction for petty theft.

(f) This section shall not be construed to repeal, modify, or weaken any existing legal prohibitions against the taking of private property.

(g) For purposes of this section, an issue is current if no more than half of the period of time until the distribution of the next issue has passed.

491. Dogs are personal property, and their value is to be ascertained in the same manner as the value of other property.

492. If the thing stolen consists of any evidence of debt, or other written instrument, the amount of money due thereupon, or secured to be paid thereby, and remaining unsatisfied, or which in any contingency might be collected thereon, or the value of the property the title to which is shown thereby, or the sum which might be recovered in the absence thereof, is the value of the thing stolen.

493. If the thing stolen is any ticket or other paper or writing entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railroad or vessel or other public conveyance, the price at which tickets entitling a person to a like passage are usually sold by the proprietors of such conveyance is the value of such ticket, paper, or writing.

494. All the provisions of this Chapter apply where the property taken is an instrument for the payment of money, evidence of debt, public security, or passage ticket, completed and ready to be issued or delivered, although the same has never been issued or delivered by the makers thereof to any person as a purchaser or owner.

495. The provisions of this Chapter apply where the thing taken is any fixture or part of the realty, and is severed at the time of the taking, in the same manner as if the thing had been severed by another person at some previous time.

496. (a) Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in a state prison, or in a county jail for not more than one year. However, if the district attorney or the grand jury determines that this action would be in the interests of justice, the district attorney or the grand jury, as the case may be, may, if the value of the property does not exceed nine hundred fifty dollars (\$950), specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in a county jail not exceeding one year.

A principal in the actual theft of the property may be convicted pursuant to this section. However, no person may be convicted both pursuant to this section and of the theft of the same property.

(b) Every swap meet vendor, as defined in Section 21661 of the Business and Professions **Code**, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value in excess of nine hundred fifty dollars (\$950) that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be punished by imprisonment in a state prison, or in a county jail for not more than one year.

Every swap meet vendor, as defined in Section 21661 of the Business and Professions **Code**, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value of nine hundred fifty dollars (\$950) or less that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be guilty of a misdemeanor.

(c) Any person who has been injured by a violation of subdivision (a) or (b) may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit, and reasonable attorney's fees.

(d) Notwithstanding Section 664, any attempt to commit any act prohibited by this section, except an offense specified in the accusatory pleading as a misdemeanor, is punishable by imprisonment in the state prison, or in a county jail for not more than one year.

496a. (a) Every person who, being a dealer in or collector of junk, metals or secondhand materials, or the agent, employee, or representative of such dealer or collector, buys or receives any wire, cable, copper, lead, solder, mercury, iron or brass which he

knows or reasonably should know is ordinarily used by or ordinarily belongs to a railroad or other transportation, telephone, telegraph, gas, water or electric light company or county, city, city and county or other political subdivision of this state engaged in furnishing public utility service without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving such property, and is punishable, by imprisonment in a state prison, or in a county jail for not more than one year, or by a fine of not more than two hundred fifty dollars (\$250), or by both such fine and imprisonment.

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

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

496b. Every person who, being a dealer in or collector of second-hand books or other literary material, or the agent, employee or representative of such dealer, or collector, buys or receives any book, manuscript, map, chart, or other work of literature, belonging to, and bearing any mark or indicia of ownership by a public or incorporated library, college or university, without ascertaining by diligent inquiry that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving such property in the first degree if such property be of the value of more than fifty dollars, and is punishable by imprisonment in the county jail for not more than one year, or by a fine of not more than twice the value of the property received, or by both such fine and imprisonment; and is guilty of criminally receiving such property in the second degree if such property be of the value of fifty dollars or under, and is punishable by imprisonment in the county jail for not more than one month, or by a fine of not more than twice the value of the property received, or by both such fine and imprisonment.

496c. Any person who shall copy, transcribe, photograph or otherwise make a record or memorandum of the contents of any private and unpublished paper, book, record, map or file, containing information relating to the title to real property or containing information used in the business of examining, certifying or insuring titles to real property and belonging to any person, firm or corporation engaged in the business of examining, certifying, or insuring titles to real property, without the consent of the owner of such paper, book, record, map or file, and with the intent to use the same or the contents thereof, or to dispose of the same or the contents thereof to others for use, in the business of examining, certifying, or insuring titles to real property, shall be guilty of theft, and any person who shall induce another to violate the provisions of this section by giving, offering, or promising to such another any gift, gratuity, or thing of value or by doing or promising to do any act beneficial to such another, shall be guilty of theft; and any person who shall receive or acquire from another any copy, transcription, photograph or other record or memorandum of the contents of any private and unpublished paper, book, record, map or file containing information relating to the title to real property or containing information used in the business of examining, certifying or insuring titles to real property, with the knowledge

that the same or the contents thereof has or have been acquired, prepared or compiled in violation of this section shall be guilty of theft. The contents of any such private and unpublished paper, book, record, map or file is hereby defined to be personal property, and in determining the value thereof for the purposes of this section the cost of acquiring and compiling the same shall be the test.

496d. (a) Every person who buys or receives any motor vehicle, as defined in Section 415 of the Vehicle **Code**, any trailer, as defined in Section 630 of the Vehicle **Code**, any special construction equipment, as defined in Section 565 of the Vehicle **Code**, or any vessel, as defined in Section 21 of the Harbors and Navigation **Code**, that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any motor vehicle, trailer, special construction equipment, or vessel from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in the state prison for 16 months or two or three years or a fine of not more than ten thousand dollars (\$10,000), or both, or by imprisonment in a county jail not to exceed one year or a fine of not more than one thousand dollars (\$1,000), or both.

(b) For the purposes of this section, the terms "special construction equipment" and "vessel" are limited to motorized vehicles and vessels.

496e. Any person who buys or receives, for purposes of salvage, any part of a fire hydrant or fire department connection, including, but not limited to, bronze or brass fittings and parts, that has been stolen or obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, shall, in addition to any other penalty provided by law, be subject to a criminal fine of not more than three thousand dollars (\$3,000).

497. Every person who, in another state or country steals or embezzles the property of another, or receives such property knowing it to have been stolen or embezzled, and brings the same into this state, may be convicted and punished in the same manner as if such larceny, or embezzlement, or receiving, had been committed in this state.

498. (a) The following definitions govern the construction of this section:

(1) "Person" means any individual, or any partnership, firm, association, corporation, limited liability company, or other legal entity.

(2) "Utility" means any electrical, gas, or water corporation as those terms are defined in the Public Utilities **Code**, and electrical, gas, or water systems operated by any political subdivision.

(3) "Customer" means the person in whose name utility service is provided.

(4) "Utility service" means the provision of electricity, gas, water, or any other service provided by the utility for compensation.

(5) "Divert" means to change the intended course or path of electricity, gas, or water without the authorization or consent of the utility.

(6) "Tamper" means to rearrange, injure, alter, interfere with, or

otherwise prevent from performing a normal or customary function.

(7) "Reconnection" means the reconnection of utility service by a customer or other person after service has been lawfully disconnected by the utility.

(b) Any person who, with intent to obtain for himself or herself utility services without paying the full lawful charge therefor, or with intent to enable another person to do so, or with intent to deprive any utility of any part of the full lawful charge for utility services it provides, commits, authorizes, solicits, aids, or abets any of the following shall be guilty of a misdemeanor:

(1) Diverts or causes to be diverted utility services, by any means.

(2) Prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by any other means.

(3) Tampers with any property owned by or used by the utility to provide utility services.

(4) Makes or causes to be made any connection with or reconnection with property owned or used by the utility to provide utility services without the authorization or consent of the utility.

(5) Uses or receives the direct benefit of all or a portion of utility services with knowledge or reason to believe that the diversion, tampering, or unauthorized connection existed at the time of that use, or that the use or receipt was otherwise without the authorization or consent of the utility.

(c) In any prosecution under this section, the presence of any of the following objects, circumstances, or conditions on premises controlled by the customer or by the person using or receiving the direct benefit of all or a portion of utility services obtained in violation of this section shall permit an inference that the customer or person intended to and did violate this section:

(1) Any instrument, apparatus, or device primarily designed to be used to obtain utility services without paying the full lawful charge therefor.

(2) Any meter that has been altered, tampered with, or bypassed so as to cause no measurement or inaccurate measurement of utility services.

(d) If the value of all utility services obtained in violation of this section totals more than nine hundred fifty dollars (\$950) or if the defendant has previously been convicted of an offense under this section or any former section which would be an offense under this section, or of an offense under the laws of another state or of the United States which would have been an offense under this section if committed in this state, then the violation is punishable by imprisonment in a county jail for not more than one year, or in the state prison.

(e) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state.

499. (a) Any person who, having been convicted of a previous violation of Section 10851 of the Vehicle Code, or of subdivision (d) of Section 487, involving a vehicle or vessel, and having served a term therefor in any penal institution or having been imprisoned therein as a condition of probation for the offense, is subsequently convicted of a violation of Section 499b, involving a vehicle or vessel, is punishable for the subsequent offense by imprisonment in the county jail not exceeding one year or the state prison for 16 months, two, or three years.

(b) Any person convicted of a violation of Section 499b, who has been previously convicted under charges separately brought and tried two or more times of a violation of Section 499b, all such violations involving a vehicle or vessel, and who has been imprisoned therefore

as a condition of probation or otherwise at least once, is punishable by imprisonment in the county jail for not more than one year or in the state prison for 16 months, two, or three years.

(c) This section shall become operative on January 1, 1997.

499b. (a) Any person who shall, without the permission of the owner thereof, take any bicycle for the purpose of temporarily using or operating the same, is guilty of a misdemeanor, and shall be punishable by a fine not exceeding four hundred dollars (\$400), or by imprisonment in a county jail not exceeding three months, or by both that fine and imprisonment.

(b) Any person who shall, without the permission of the owner thereof, take any vessel for the purpose of temporarily using or operating the same, is guilty of a misdemeanor, and shall be punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

499c. (a) As used in this section:

(1) "Access" means to approach, a way or means of approaching, nearing, admittance to, including to instruct, communicate with, store information in, or retrieve information from a computer system or computer network.

(2) "Article" means any object, material, device, or substance or copy thereof, including any writing, record, recording, drawing, sample, specimen, prototype, model, photograph, micro-organism, blueprint, map, or tangible representation of a computer program or information, including both human and computer readable information and information while in transit.

(3) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he or she is interested.

(4) "Computer system" means a machine or collection of machines, one or more of which contain computer programs and information, that performs functions, including, but not limited to, logic, arithmetic, information storage and retrieval, communications, and control.

(5) "Computer network" means an interconnection of two or more computer systems.

(6) "Computer program" means an ordered set of instructions or statements, and related information that, when automatically executed in actual or modified form in a computer system, causes it to perform specified functions.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article.

(8) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(9) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(A) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and

(B) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(b) Every person is guilty of theft who, with intent to deprive or withhold the control of a trade secret from its owner, or with an intent to appropriate a trade secret to his or her own use or to the use of another, does any of the following:

(1) Steals, takes, carries away, or uses without authorization, a trade secret.

(2) Fraudulently appropriates any article representing a trade

secret entrusted to him or her.

(3) Having unlawfully obtained access to the article, without authority makes or causes to be made a copy of any article representing a trade secret.

(4) Having obtained access to the article through a relationship of trust and confidence, without authority and in breach of the obligations created by that relationship, makes or causes to be made, directly from and in the presence of the article, a copy of any article representing a trade secret.

(c) Every person who promises, offers or gives, or conspires to promise or offer to give, to any present or former agent, employee or servant of another, a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a trade secret owned by his or her present or former principal, employer or master, to any person not authorized by the owner to receive or acquire the trade secret and every present or former agent, employee, or servant, who solicits, accepts, receives or takes a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a trade secret owned by his or her present or former principal, employer or master, to any person not authorized by the owner to receive or acquire the trade secret, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine and imprisonment.

(d) In a prosecution for a violation of this section, it shall be no defense that the person returned or intended to return the article.

499d. Any person who operates or takes an aircraft not his own, without the consent of the owner thereof, and with intent to either permanently or temporarily deprive the owner thereof of his title to or possession of such vehicle, whether with or without intent to steal the same, or any person who is a party or accessory to or an accomplice in any operation or unauthorized taking or stealing is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year or by a fine of not more than ten thousand dollars (\$10,000) or by both such fine and imprisonment.

500. (a) Any person who receives money for the actual or purported purpose of transmitting the same or its equivalent to foreign countries as specified in Section 1800.5 of the Financial Code who fails to do at least one of the following acts unless otherwise instructed by the customer is guilty of a misdemeanor or felony as set forth in subdivision (b):

(1) Forward the money as represented to the customer within 10 days of receipt of the funds.

(2) Give instructions within 10 days of receipt of the customer's funds, committing equivalent funds to the person designated by the customer.

(3) Refund to the customer any money not forwarded as represented within 10 days of the customer's written request for a refund pursuant to subdivision (a) of Section 1810.5 of the Financial Code.

(b) (1) If the total value of the funds received from the customer is less than nine hundred fifty dollars (\$950), the offense set forth in subdivision (a) is punishable by imprisonment in a county jail not exceeding one year or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) If the total value of the money received from the customer is nine hundred fifty dollars (\$950) or more, or if the total value of all moneys received by the person from different customers is nine

hundred fifty dollars (\$950) or more, and the receipts were part of a common scheme or plan, the offense set forth in subdivision (a) is punishable by imprisonment in the state prison for 16 months, 2, or 3 years, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine.

501. Upon a trial for larceny or embezzlement of money, bank notes, certificates of stock, or valuable securities, the allegation of the indictment or information, so far as regards the description of the property, is sustained, if the offender be proved to have embezzled or stolen any money, bank notes, certificates of stock, or valuable security, although the particular species of coin or other money, or the number, denomination, or kind of bank notes, certificates of stock, or valuable security, is not proved; and upon a trial for embezzlement, if the offender is proved to have embezzled any piece of coin or other money, any bank note, certificate of stock, or valuable security, although the piece of coin or other money, or bank note, certificate of stock, or valuable security, may have been delivered to him or her in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly.

502. (a) It is the intent of the Legislature in enacting this section to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems. The Legislature finds and declares that the proliferation of computer technology has resulted in a concomitant proliferation of computer crime and other forms of unauthorized access to computers, computer systems, and computer data.

The Legislature further finds and declares that protection of the integrity of all types and forms of lawfully created computers, computer systems, and computer data is vital to the protection of the privacy of individuals as well as to the well-being of financial institutions, business concerns, governmental agencies, and others within this state that lawfully utilize those computers, computer systems, and data.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Access" means to gain entry to, instruct, or communicate with the logical, arithmetical, or memory function resources of a computer, computer system, or computer network.

(2) "Computer network" means any system that provides communications between one or more computer systems and input/output devices including, but not limited to, display terminals and printers connected by telecommunication facilities.

(3) "Computer program or software" means a set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.

(4) "Computer services" includes, but is not limited to, computer time, data processing, or storage functions, or other uses of a computer, computer system, or computer network.

(5) "Computer system" means a device or collection of devices, including support devices and excluding calculators that are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(6) "Data" means a representation of information, knowledge,

facts, concepts, computer software, computer programs or instructions. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit or presented on a display device.

(7) "Supporting documentation" includes, but is not limited to, all information, in any form, pertaining to the design, construction, classification, implementation, use, or modification of a computer, computer system, computer network, computer program, or computer software, which information is not generally available to the public and is necessary for the operation of a computer, computer system, computer network, computer program, or computer software.

(8) "Injury" means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access, or the denial of access to legitimate users of a computer system, network, or program.

(9) "Victim expenditure" means any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, deleted, damaged, or destroyed by the access.

(10) "Computer contaminant" means any set of computer instructions that are designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the computer, computer system, or computer network.

(11) "Internet domain name" means a globally unique, hierarchical reference to an Internet host or service, assigned through centralized Internet naming authorities, comprising a series of character strings separated by periods, with the rightmost character string specifying the top of the hierarchy.

(c) Except as provided in subdivision (h), any person who commits any of the following acts is guilty of a public offense:

(1) Knowingly accesses and without permission alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data.

(2) Knowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network, or takes or copies any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network.

(3) Knowingly and without permission uses or causes to be used computer services.

(4) Knowingly accesses and without permission adds, alters, damages, deletes, or destroys any data, computer software, or computer programs which reside or exist internal or external to a computer, computer system, or computer network.

(5) Knowingly and without permission disrupts or causes the disruption of computer services or denies or causes the denial of computer services to an authorized user of a computer, computer system, or computer network.

(6) Knowingly and without permission provides or assists in providing a means of accessing a computer, computer system, or computer network in violation of this section.

(7) Knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network.

(8) Knowingly introduces any computer contaminant into any computer, computer system, or computer network.

(9) Knowingly and without permission uses the Internet domain name

of another individual, corporation, or entity in connection with the sending of one or more electronic mail messages, and thereby damages or causes damage to a computer, computer system, or computer network.

(d) (1) Any person who violates any of the provisions of paragraph (1), (2), (4), or (5) of subdivision (c) is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) Any person who violates paragraph (3) of subdivision (c) is punishable as follows:

(A) For the first violation that does not result in injury, and where the value of the computer services used does not exceed nine hundred fifty dollars (\$950), by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in a victim expenditure in an amount greater than five thousand dollars (\$5,000) or in an injury, or if the value of the computer services used exceeds nine hundred fifty dollars (\$950), or for any second or subsequent violation, by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(3) Any person who violates paragraph (6) or (7) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars (\$1,000).

(B) For any violation that results in a victim expenditure in an amount not greater than five thousand dollars (\$5,000), or for a second or subsequent violation, by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(C) For any violation that results in a victim expenditure in an amount greater than five thousand dollars (\$5,000), by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(4) Any person who violates paragraph (8) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, a misdemeanor punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

(5) Any person who violates paragraph (9) of subdivision (c) is punishable as follows:

(A) For a first violation that does not result in injury, an infraction punishable by a fine not one thousand dollars.

(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(e) (1) In addition to any other civil remedy available, the owner

or lessee of the computer, computer system, computer network, computer program, or data who suffers damage or loss by reason of a violation of any of the provisions of subdivision (c) may bring a civil action against the violator for compensatory damages and injunctive relief or other equitable relief. Compensatory damages shall include any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.

(2) In any action brought pursuant to this subdivision the court may award reasonable attorney's fees.

(3) A community college, state university, or academic institution accredited in this state is required to include computer-related crimes as a specific violation of college or university student conduct policies and regulations that may subject a student to disciplinary sanctions up to and including dismissal from the academic institution. This paragraph shall not apply to the University of California unless the Board of Regents adopts a resolution to that effect.

(4) In any action brought pursuant to this subdivision for a willful violation of the provisions of subdivision (c), where it is proved by clear and convincing evidence that a defendant has been guilty of oppression, fraud, or malice as defined in subdivision (c) of Section 3294 of the Civil Code, the court may additionally award punitive or exemplary damages.

(5) No action may be brought pursuant to this subdivision unless it is initiated within three years of the date of the act complained of, or the date of the discovery of the damage, whichever is later.

(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction, nor shall it make illegal any employee labor relations activities that are within the scope and protection of state or federal labor laws.

(g) Any computer, computer system, computer network, or any software or data, owned by the defendant, that is used during the commission of any public offense described in subdivision (c) or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of subdivision (c) shall be subject to forfeiture, as specified in Section 502.01.

(h) (1) Subdivision (c) does not apply to punish any acts which are committed by a person within the scope of his or her lawful employment. For purposes of this section, a person acts within the scope of his or her employment when he or she performs acts which are reasonably necessary to the performance of his or her work assignment.

(2) Paragraph (3) of subdivision (c) does not apply to penalize any acts committed by a person acting outside of his or her lawful employment, provided that the employee's activities do not cause an injury, as defined in paragraph (8) of subdivision (b), to the employer or another, or provided that the value of supplies or computer services, as defined in paragraph (4) of subdivision (b), which are used does not exceed an accumulated total of two hundred fifty dollars (\$250).

(i) No activity exempted from prosecution under paragraph (2) of subdivision (h) which incidentally violates paragraph (2), (4), or (7) of subdivision (c) shall be prosecuted under those paragraphs.

(j) For purposes of bringing a civil or a criminal action under this section, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the

computer, computer system, or computer network in each jurisdiction.

(k) In determining the terms and conditions applicable to a person convicted of a violation of this section the court shall consider the following:

(1) The court shall consider prohibitions on access to and use of computers.

(2) Except as otherwise required by law, the court shall consider alternate sentencing, including community service, if the defendant shows remorse and recognition of the wrongdoing, and an inclination not to repeat the offense.

502.01. (a) As used in this section:

(1) "Property subject to forfeiture" means any property of the defendant that is illegal telecommunications equipment as defined in subdivision (g) of Section 502.8, or a computer, computer system, or computer network, and any software or data residing thereon, if the telecommunications device, computer, computer system, or computer network was used in committing a violation of, or conspiracy to commit a violation of, subdivision (b) of Section 272, Section 288, 288.2, 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, 311.11, 422, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, or 530.5, 537e, 593d, 593e, or 646.9, or was used as a repository for the storage of software or data obtained in violation of those provisions. Forfeiture shall not be available for any property used solely in the commission of an infraction. If the defendant is a minor, it also includes property of the parent or guardian of the defendant.

(2) "Sentencing court" means the court sentencing a person found guilty of violating or conspiring to commit a violation of subdivision (b) of Section 272, Section 288, 288.2, 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, 311.11, 422, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, 530.5, 537e, 593d, 593e, or 646.9, or, in the case of a minor, found to be a person described in Section 602 of the Welfare and Institutions **Code** because of a violation of those provisions, the juvenile court.

(3) "Interest" means any property interest in the property subject to forfeiture.

(4) "Security interest" means an interest that is a lien, mortgage, security interest, or interest under a conditional sales contract.

(5) "Value" has the following meanings:

(A) When counterfeit items of computer software are manufactured or possessed for sale, the "value" of those items shall be equivalent to the retail price or fair market price of the true items that are counterfeited.

(B) When counterfeited but unassembled components of computer software packages are recovered, including, but not limited to, counterfeited computer diskettes, instruction manuals, or licensing envelopes, the "value" of those components of computer software packages shall be equivalent to the retail price or fair market price of the number of completed computer software packages that could have been made from those components.

(b) The sentencing court shall, upon petition by the prosecuting attorney, at any time following sentencing, or by agreement of all parties, at the time of sentencing, conduct a hearing to determine whether any property or property interest is subject to forfeiture under this section. At the forfeiture hearing, the prosecuting attorney shall have the burden of establishing, by a preponderance of

the evidence, that the property or property interests are subject to forfeiture. The prosecuting attorney may retain seized property that may be subject to forfeiture until the sentencing hearing.

(c) Prior to the commencement of a forfeiture proceeding, the law enforcement agency seizing the property subject to forfeiture shall make an investigation as to any person other than the defendant who may have an interest in it. At least 30 days before the hearing to determine whether the property should be forfeited, the prosecuting agency shall send notice of the hearing to any person who may have an interest in the property that arose before the seizure.

A person claiming an interest in the property shall file a motion for the redemption of that interest at least 10 days before the hearing on forfeiture, and shall send a copy of the motion to the prosecuting agency and to the probation department.

If a motion to redeem an interest has been filed, the sentencing court shall hold a hearing to identify all persons who possess valid interests in the property. No person shall hold a valid interest in the property if, by a preponderance of the evidence, the prosecuting agency shows that the person knew or should have known that the property was being used in violation of, or conspiracy to commit a violation of, subdivision (b) of Section 272, Section 288, 288.2, 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, 311.11, 470, 470a, 472, 475, 476, 480, 483.5, 484g, or subdivision (a), (b), or (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) or (c) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, 530.5, 537e, 593d, 593e, or 646.9, and that the person did not take reasonable steps to prevent that use, or if the interest is a security interest, the person knew or should have known at the time that the security interest was created that the property would be used for a violation.

(d) If the sentencing court finds that a person holds a valid interest in the property, the following provisions shall apply:

(1) The court shall determine the value of the property.

(2) The court shall determine the value of each valid interest in the property.

(3) If the value of the property is greater than the value of the interest, the holder of the interest shall be entitled to ownership of the property upon paying the court the difference between the value of the property and the value of the valid interest.

If the holder of the interest declines to pay the amount determined under paragraph (2), the court may order the property sold and designate the prosecutor or any other agency to sell the property. The designated agency shall be entitled to seize the property and the holder of the interest shall forward any documentation underlying the interest, including any ownership certificates for that property, to the designated agency. The designated agency shall sell the property and pay the owner of the interest the proceeds, up to the value of that interest.

(4) If the value of the property is less than the value of the interest, the designated agency shall sell the property and pay the owner of the interest the proceeds, up to the value of that interest.

(e) If the defendant was a minor at the time of the offense, this subdivision shall apply to property subject to forfeiture that is the property of the parent or guardian of the minor.

(1) The prosecuting agency shall notify the parent or guardian of the forfeiture hearing at least 30 days before the date set for the hearing.

(2) The computer or telecommunications device shall not be subject to forfeiture if the parent or guardian files a signed statement with the court at least 10 days before the date set for the hearing that the minor shall not have access to any computer or telecommunications device owned by the parent or guardian for two years after the date on which the minor is sentenced.

(3) If the minor is convicted of a violation of Section 288, 288.2, 311.1, 311.2, 311.3, 311.4, 311.5, 311.10, 311.11, 470, 470a,

472, 476, 480, or subdivision (b) of Section 484e, subdivision (d) of Section 484e, subdivision (a) of Section 484f, subdivision (b) of Section 484i, subdivision (c) of Section 502, or Section 502.7, 502.8, 529, 529a, or 530.5, within two years after the date on which the minor is sentenced, and the violation involves a computer or telecommunications device owned by the parent or guardian, the original property subject to forfeiture, and the property involved in the new offense, shall be subject to forfeiture notwithstanding paragraph (2).

(4) Notwithstanding paragraph (1), (2), or (3), or any other provision of this chapter, if a minor's parent or guardian makes full restitution to the victim of a crime enumerated in this chapter in an amount or manner determined by the court, the forfeiture provisions of this chapter do not apply to the property of that parent or guardian if the property was located in the family's primary residence during the commission of the crime.

(f) Notwithstanding any other provision of this chapter, the court may exercise its discretion to deny forfeiture where the court finds that the convicted defendant, or minor adjudicated to come within the jurisdiction of the juvenile court, is not likely to use the property otherwise subject to forfeiture for future illegal acts.

(g) If the defendant is found to have the only valid interest in the property subject to forfeiture, it shall be distributed as follows:

(1) First, to the victim, if the victim elects to take the property as full or partial restitution for injury, victim expenditures, or compensatory damages, as defined in paragraph (1) of subdivision (e) of Section 502. If the victim elects to receive the property under this paragraph, the value of the property shall be determined by the court and that amount shall be credited against the restitution owed by the defendant. The victim shall not be penalized for electing not to accept the forfeited property in lieu of full or partial restitution.

(2) Second, at the discretion of the court, to one or more of the following agencies or entities:

(A) The prosecuting agency.

(B) The public entity of which the prosecuting agency is a part.

(C) The public entity whose officers or employees conducted the investigation resulting in forfeiture.

(D) Other state and local public entities, including school districts.

(E) Nonprofit charitable organizations.

(h) If the property is to be sold, the court may designate the prosecuting agency or any other agency to sell the property at auction. The proceeds of the sale shall be distributed by the court as follows:

(1) To the bona fide or innocent purchaser or encumbrancer, conditional sales vendor, or mortgagee of the property up to the amount of his or her interest in the property, if the court orders a distribution to that person.

(2) The balance, if any, to be retained by the court, subject to the provisions for distribution under subdivision (g).

502.5. Every person who, after mortgaging or encumbering by deed of trust any real property, and during the existence of such mortgage or deed of trust, or after such mortgaged or encumbered property shall have been sold under an order and decree of foreclosure or at trustee's sale, and with intent to defraud or injure the mortgagee or the beneficiary or trustee, under such deed of trust, his representatives, successors or assigns, or the purchaser of such mortgaged or encumbered premises at such foreclosure or trustee's sale, his representatives, successors or assigns, takes, removes or carries away from such mortgaged or encumbered premises, or otherwise

disposes of or permits the taking, removal or carrying away or otherwise disposing of any house, barn, windmill, water tank, pump, engine or other part of the freehold that is attached or affixed to such premises as an improvement thereon, without the written consent of the mortgagee or beneficiary, under deed of trust, his representatives, successors or assigns, or the purchaser at such foreclosure or trustee's sale, his representatives, successors or assigns, is guilty of larceny and shall be punished accordingly.

502.6. (a) Any person who knowingly, willfully, and with the intent to defraud, possesses a scanning device, or who knowingly, willfully, and with intent to defraud, uses a scanning device to access, read, obtain, memorize or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card is guilty of a misdemeanor, punishable by a term in a county jail not to exceed one year, or a fine of one thousand dollars (\$1,000), or both the imprisonment and fine.

(b) Any person who knowingly, willfully, and with the intent to defraud, possesses a reencoder, or who knowingly, willfully, and with intent to defraud, uses a reencoder to place encoded information on the magnetic strip or stripe of a payment card or any electronic medium that allows an authorized transaction to occur, without the permission of the authorized user of the payment card from which the information is being reencoded is guilty of a misdemeanor, punishable by a term in a county jail not to exceed one year, or a fine of one thousand dollars (\$1,000), or both the imprisonment and fine.

(c) Any scanning device or reencoder described in subdivision (e) owned by the defendant and possessed or used in violation of subdivision (a) or (b) may be seized and be destroyed as contraband by the sheriff of the county in which the scanning device or reencoder was seized.

(d) Any computer, computer system, computer network, or any software or data, owned by the defendant, which is used during the commission of any public offense described in this section or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of this section shall be subject to forfeiture.

(e) As used in this section, the following definitions apply:

(1) "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

(2) "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a payment card on to the magnetic strip or stripe of a different payment card.

(3) "Payment card" means a credit card, debit card, or any other card that is issued to an authorized user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value.

(f) Nothing in this section shall preclude prosecution under any other provision of law.

502.7. (a) Any person who, knowingly, willfully, and with intent to defraud a person providing telephone or telegraph service, avoids or attempts to avoid, or aids, abets or causes another to avoid the lawful charge, in whole or in part, for telephone or telegraph service by any of the following means is guilty of a misdemeanor or a felony, except as provided in subdivision (g):

(1) By charging the service to an existing telephone number or credit card number without the authority of the subscriber thereto or

the lawful holder thereof.

(2) By charging the service to a nonexistent telephone number or credit card number, or to a number associated with telephone service which is suspended or terminated, or to a revoked or canceled (as distinguished from expired) credit card number, notice of the suspension, termination, revocation, or cancellation of the telephone service or credit card having been given to the subscriber thereto or the holder thereof.

(3) By use of a **code**, prearranged scheme, or other similar stratagem or device whereby the person, in effect, sends or receives information.

(4) By rearranging, tampering with, or making connection with telephone or telegraph facilities or equipment, whether physically, electrically, acoustically, inductively, or otherwise, or by using telephone or telegraph service with knowledge or reason to believe that the rearrangement, tampering, or connection existed at the time of the use.

(5) By using any other deception, false pretense, trick, scheme, device, conspiracy, or means, including the fraudulent use of false, altered, or stolen identification.

(b) Any person who does either of the following is guilty of a misdemeanor or a felony, except as provided in subdivision (g):

(1) Makes, possesses, sells, gives, or otherwise transfers to another, or offers or advertises any instrument, apparatus, or device with intent to use it or with knowledge or reason to believe it is intended to be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph message.

(2) Sells, gives, or otherwise transfers to another or offers, or advertises plans or instructions for making or assembling an instrument, apparatus, or device described in paragraph (1) of this subdivision with knowledge or reason to believe that they may be used to make or assemble the instrument, apparatus, or device.

(c) Any person who publishes the number or **code** of an existing, canceled, revoked, expired, or nonexistent credit card, or the numbering or coding which is employed in the issuance of credit cards, with the intent that it be used or with knowledge or reason to believe that it will be used to avoid the payment of any lawful telephone or telegraph toll charge is guilty of a misdemeanor. Subdivision (g) shall not apply to this subdivision. As used in this section, "publishes" means the communication of information to any one or more persons, either orally, in person or by telephone, radio, or television, or electronic means, including, but not limited to, a bulletin board system, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper, or magazine article, or book.

(d) Any person who is the issuer of a calling card, credit card, calling **code**, or any other means or device for the legal use of telecommunications services and who receives anything of value for knowingly allowing another person to use the means or device in order to fraudulently obtain telecommunications services is guilty of a misdemeanor or a felony, except as provided in subdivision (g).

(e) Subdivision (a) applies when the telephone or telegraph communication involved either originates or terminates, or both originates and terminates, in this state, or when the charges for service would have been billable, in normal course, by a person providing telephone or telegraph service in this state, but for the fact that the charge for service was avoided, or attempted to be avoided, by one or more of the means set forth in subdivision (a).

(f) Jurisdiction of an offense under this section is in the jurisdictional territory where the telephone call or telegram involved in the offense originates or where it terminates, or the jurisdictional territory to which the bill for the service is sent or would have been sent but for the fact that the service was obtained or attempted to be obtained by one or more of the means set forth in

subdivision (a).

(g) Theft of any telephone or telegraph services under this section by a person who has a prior misdemeanor or felony conviction for theft of services under this section within the past five years, is a felony.

(h) Any person or telephone company defrauded by any acts prohibited under this section shall be entitled to restitution for the entire amount of the charges avoided from any person or persons convicted under this section.

(i) Any instrument, apparatus, device, plans, instructions, or written publication described in subdivision (b) or (c) may be seized under warrant or incident to a lawful arrest, and, upon the conviction of a person for a violation of subdivision (a), (b), or (c), the instrument, apparatus, device, plans, instructions, or written publication may be destroyed as contraband by the sheriff of the county in which the person was convicted or turned over to the person providing telephone or telegraph service in the territory in which it was seized.

(j) Any computer, computer system, computer network, or any software or data, owned by the defendant, which is used during the commission of any public offense described in this section or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of this section shall be subject to forfeiture.

502.8. (a) Any person who knowingly advertises illegal telecommunications equipment is guilty of a misdemeanor.

(b) Any person who possesses or uses illegal telecommunications equipment intending to avoid the payment of any lawful charge for telecommunications service or to facilitate other criminal conduct is guilty of a misdemeanor.

(c) Any person found guilty of violating subdivision (b), who has previously been convicted of the same offense, shall be guilty of a felony, punishable by imprisonment in state prison, a fine of up to fifty thousand dollars (\$50,000), or both.

(d) Any person who possesses illegal telecommunications equipment with intent to sell, transfer, or furnish or offer to sell, transfer, or furnish the equipment to another, intending to avoid the payment of any lawful charge for telecommunications service or to facilitate other criminal conduct is guilty of a misdemeanor punishable by one year in a county jail or imprisonment in state prison or a fine of up to ten thousand dollars (\$10,000), or both.

(e) Any person who possesses 10 or more items of illegal telecommunications equipment with intent to sell or offer to sell the equipment to another, intending to avoid payment of any lawful charge for telecommunications service or to facilitate other criminal conduct, is guilty of a felony, punishable by imprisonment in state prison, a fine of up to fifty thousand dollars (\$50,000), or both.

(f) Any person who manufactures 10 or more items of illegal telecommunications equipment with intent to sell or offer to sell the equipment to another, intending to avoid the payment of any lawful charge for telecommunications service or to facilitate other criminal conduct is guilty of a felony punishable by imprisonment in state prison or a fine of up to fifty thousand dollars (\$50,000), or both.

(g) For purposes of this section, "illegal telecommunications equipment" means equipment that operates to evade the lawful charges for any telecommunications service; surreptitiously intercept electronic serial numbers or mobile identification numbers; alter electronic serial numbers; circumvent efforts to confirm legitimate access to a telecommunications account; conceal from any telecommunications service provider or lawful authority the existence, place of origin, or destination of any telecommunication; or otherwise facilitate any other criminal conduct. "Illegal

telecommunications equipment" includes, but is not limited to, any unauthorized electronic serial number or mobile identification number, whether incorporated into a wireless telephone or other device or otherwise. Items specified in this paragraph shall be considered illegal telecommunications equipment notwithstanding any statement or disclaimer that the items are intended for educational, instructional, or similar purposes.

(h) (1) In the event that a person violates the provisions of this section with the intent to avoid the payment of any lawful charge for telecommunications service to a telecommunications service provider, the court shall order the person to pay restitution to the telecommunications service provider in an amount that is the greater of the following:

(A) Five thousand dollars (\$5,000).

(B) Three times the amount of actual damages, if any, sustained by the telecommunications service provider, plus reasonable attorney fees.

(2) It is not a necessary prerequisite to an order of restitution under this section that the telecommunications service provider has suffered, or be threatened with, actual damages.

502.9. Upon conviction of a felony violation under this chapter, the fact that the victim was an elder or dependent person, as defined in Section 288, shall be considered a circumstance in aggravation when imposing a term under subdivision (b) of Section 1170.