**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4284**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Cobb‑Hunter and Bowers

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Introduced in the House on January 12, 2010

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Personal Property Recovery Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/15/2009 House Prefiled

12/15/2009 House Referred to Committee on **Labor, Commerce and Industry**

1/12/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\01-12-10.docx)‑58

1/12/2010 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2010\01-12-10.docx)‑58

2/16/2010 House Member(s) request name added as sponsor: Bowers

**VERSIONS OF THIS BILL**

[12/15/2009](file:///p:\pprever\2009-10\4284_20091215.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 14 TO TITLE 37 SO AS TO ENACT THE “PERSONAL PROPERTY RECOVERY ACT” WHICH ESTABLISHES THE LICENSURE AND REGULATION OF RECOVERY AGENCIES AND RECOVERY AGENTS BY THE DEPARTMENT OF CONSUMER AFFAIRS BY, AMONG OTHER THINGS, PROVIDING LICENSURE REQUIREMENTS, INCLUDING FEES, SURETY BONDS, AND RECORD KEEPING REQUIREMENTS, GROUNDS FOR DENIAL, REVOCATION, OR SUSPENSION OF A LICENSE, LICENSE RENEWAL PROCEDURES AND REQUIREMENTS, INCLUDING CONTINUING EDUCATION, PERSONAL PROPERTY RECOVERY PROCEDURES, AND CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This chapter is known and may be cited as the “Personal Property Recovery Act”.

SECTION 2. Title 37 of the 1976 Code is amended by adding:

“CHAPTER 14

Personal Property Recovery

Section 37‑14‑10. As used in this chapter:

(1) ‘Advertise’ means the submission of bids, contracting, or making known by public notice or solicitation of business, directly or indirectly, that services regulated pursuant to this chapter are available for consideration.

(2) ‘Applicant’ means a person who seeks licensure or the renewal of a license pursuant to this chapter.

(3) ‘Branch office’ means an additional location in which a licensee actively conducts business authorized by the license and advertises that he engages in the business authorized by the license.

(4) ‘Consumer’ means:

(a) a natural person obligated or allegedly obligated to pay a debt incurred primarily for a personal, family, or household purpose;

(b) a consumer as defined in Section 37–1–301(10);

(c) a consumer’s spouse, guardian, executor, or administrator; and

(d) the parent of a minor consumer.

(5) ‘Conviction’ means an adjudication of guilt by a court resulting from a trial or plea.

(6) ‘Debt’ means an obligation of a consumer to pay money arising out of a transaction primarily for personal, family, or household purposes.

(7) ‘Department’ means the South Carolina Department of Consumer Affairs.

(8) ‘Good moral character’ means a personal history of honesty, fairness, and respect for individual rights and the laws of this State and nation.

(9) ‘Licensee’ means a person licensed pursuant to this chapter.

(10) ‘Location information’ means a consumer’s place of abode and his telephone number at his place of abode or place of employment.

(11) ‘Person’ means a person as defined in Section 37–1–301(20).

(12) ‘Principal place of business’ means the primary executive office of a business entity.

(13) ‘Recovery agent’ means a person who, for consideration, works in the business of performing repossessions. A recovery agent must be employed by a licensed recovery agency.

(14) ‘Recovery agency’ means a person who, for consideration, advertises as performing or is engaged in the business of performing repossession.

(15) ‘Repossession’ means the recovery of a motor vehicle, manufactured home, motorboat, or other personal property by an individual who is authorized by the legal owner, lien holder, or lessor to recover property, or to collect money payment in lieu of recovery of property, that has been sold or leased pursuant to a security agreement that contains a repossession clause. A repossession pursuant to this chapter does not include the towing of a vehicle at the request of the legal owner or pursuant to another provision of law. A repossession is complete when a licensed recovery agent is in control, custody, and possession of the motor vehicle, manufactured home, motorboat, or other personal property and, when repossessing at the debtor’s premises, has removed the personal property from the premises of the debtor.

(16) ‘Revocation’ means to withdraw or terminate a license to act as a recovery agency or agent or to prohibit the renewal of the license on a permanent or temporary basis.

(17) ‘Suspension’ means to withdraw or terminate a license of a recovery agency or agent for less than one year.

Section 37‑14‑20. In addition to the powers and duties provided in this chapter, the department has the powers and duties granted to the administrator in Part 1 of Chapter 6, Title 37 to administer and enforce the provisions of this chapter and may promulgate regulations necessary to effectuate the purposes of this chapter.

Section 37‑14‑30. (A) A person may not engage in the business of repossessing personal property without first obtaining a license pursuant to this chapter.

(B) A person engaged in the business of repossessing personal property on the effective date of this chapter may continue to engage in the business without a license until the department has acted upon the application for a license if the application is filed within sixty days of the effective date of this chapter.

(C) A person may not engage the services of an unlicensed person to conduct an activity regulated pursuant to this chapter.

(D) A person may not employ or contract with more than one licensed person or recovery agent to repossess the same vehicle during the same time period and in the same geographical region.

Section 37‑14‑40. This chapter does not apply to:

(1) an individual solely, exclusively, and regularly employed as a recovery agent of a lien holder or lessor;

(2) an attorney in the regular practice of his profession; or

(3) a bank or bank holding company, credit union, restricted lender, supervised lender, or a collection agency not engaged in repossessions.

Section 37‑14‑50. (A) A person who seeks licensure as a recovery agency shall submit to the department an application on a form provided by the department. An application must be made in writing and under oath. An application must provide:

(1) the proposed name under which the licensee intends to conduct business;

(2) the street address, mailing address, and telephone number of the principal place of business and each branch office in this State;

(3) the name and address of each owner, partner, member, officer, or director of the applicant;

(4) a description of the ownership interest of each owner, partner, member, officer, director, or employee of the applicant;

(5) an audited financial statement for the applicant for the most recent fiscal year;

(6) a surety bond as required in Section 37‑14‑80; and

(7) a list of all employees engaged in personal property recovery activities.

(B) An application for a license as a recovery agency must be accompanied by a nonrefundable licensing fee of five hundred dollars for the applicant’s primary office, an investigation fee of two hundred dollars, the actual cost of obtaining criminal records checks, and a nonrefundable branch office license fee of one hundred dollars for each branch office in this State.

(C) The application also must include the following for each owner, partner, member, officer, or director:

(1) consent to a criminal records check;

(2) a full set of fingerprints that the department shall submit to the South Carolina Law Enforcement Division (SLED), the Federal Bureau of Investigation (FBI), or another appropriate law enforcement agency to verify the identity of an applicant and obtain records of an applicant’s criminal arrests and convictions; and

(3) a personal composite credit report that is less than ninety days old.

(D) Upon receipt of an application on the forms prescribed by the department and accompanied by the required fee, the department shall investigate whether the applicant’s qualifications for a license are satisfied.

Section 37‑14‑60. A recovery agency must maintain at least one physical location in this State from which it conducts the normal business of repossession. This location must be considered the licensee’s primary office. If more than one location is maintained in this State, the licensee shall designate the primary office.

Section 37‑14‑70. A recovery agency must apply for a branch office license for each location within this State, other than the primary office, in which it conducts repossession activities. The application must state the location and address of the branch office and the name and address of the person who will actively manage the branch office. An applicant must include with the application a rider or endorsement to the licensee’s surety bond that increases the penal sum of the bond by ten thousand dollars for each branch office and a nonrefundable branch office license fee in the amount of one hundred dollars for each branch.

Section 37‑14‑80. (A) The department may not issue a license until an applicant provides a bond:

(1) executed by the applicant and two responsible sureties or a surety company licensed to do business in this State;

(2) executed in favor of the department in the penal sum of at least one hundred fifty thousand dollars;

(3) conditioned for the faithful performance of the duties and obligations of the business;

(4) for the department’s use on behalf of the State or a consumer with a cause of action against a licensee arising from a violation of this chapter; and

(5) continuous in form and designed to remain in full force and effect concurrently with the license unless terminated by the surety.

(B) A person must commence an action pursuant to this section within three years from the date on which the consumer discovered or reasonably should have discovered the facts giving rise to the consumer’s claim.

(C) The department shall notify a recovery agency when it receives notice from a surety company that the surety company intends to withdraw as the surety of the licensee. The department shall provide the recovery agent with this notice within forty–five days of receipt of notice from the surety company. A recovery agency’s license becomes void upon the termination of the bond by the surety company unless, prior to termination, the licensee files a new bond with the department.

(D) Notwithstanding other provisions in this chapter, the department, upon finding that the licensee has engaged intentionally or repeatedly in a course of conduct in violation of this chapter, may increase the required bond.

Section 37‑14‑90. (A) The department may not issue a license unless the recovery agency files with the department a certification of insurance evidencing coverage:

(1) written by an insurance company licensed to do business in this State;

(2) providing the department as an additional insured for the purpose of receiving all notices of modification or cancellation of the insurance;

(3) providing for a combined single limit policy in the amount of at least three hundred thousand dollars;

(4) including comprehensive general liability coverage for death, bodily injury, property damage, and personal injury coverage including breach of the peace, wrongful repossession, false arrest, detention or imprisonment, malicious prosecution, libel, slander, defamation of character, and violation of the right of privacy; and

(5) insuring for the liability of all employees acting in the course of their employment.

(B) A licensee immediately shall notify the department of a claim made against its coverage.

(C) A licensee immediately shall notify the department of the policy’s cancellation, regardless of whether the cancellation was initiated by the insurance company or the insured licensee.

(D) The department automatically shall suspend a license on the date of cancellation of a licensee’s coverage unless evidence of insurance is provided to the department prior to the effective date of cancellation.

Section 37‑14‑100. (A) A recovery agent applicant shall submit to the department an application for a license on forms prescribed by the department, in writing, under oath, that provides:

(1) the applicant’s name and any aliases;

(2) the applicant’s age and date of birth;

(3) the applicant’s place of birth;

(4) the applicant’s social security number or alien registration number, as applicable;

(5) the applicant’s residential address and the applicant’s residential addresses for the five years immediately preceding the submission of the application;

(6) the applicant’s present occupation and all occupations the applicant has held within the five years immediately preceding the submission of the application;

(7) a statement of all convictions other than misdemeanor traffic violations;

(8) a statement of whether the applicant has ever been adjudicated incompetent;

(9) a statement of whether the applicant has ever been committed to a mental institution;

(10) consent to a criminal records check and a full set of fingerprints that the department shall submit to SLED, the FBI, or other appropriate law enforcement agencies to verify the identity of an applicant and obtain records of an applicant’s arrests and convictions;

(11) a personal inquiry waiver that allows the department to conduct the necessary investigations, including a credit investigation, to satisfy the requirements of this chapter;

(12) the name of the recovery agency for whom the recovery agent intends to work; and

(13) additional information required to demonstrate that the applicant possesses good moral character, experience, and training and otherwise satisfies the requirements of this chapter.

(B) The department shall investigate whether the qualifications for a license are satisfied upon receipt of an application on the forms prescribed by the department and accompanied by a nonrefundable license fee of fifty dollars and payment of the actual cost of obtaining criminal records checks.

(C) The department shall issue an identification card to each recovery agent that the recovery agent must carry while engaging in repossessions. An identification card must include:

(1) the recovery agent’s name;

(2) the recovery agency’s name, address, and telephone number;

(3) a color photograph of the recovery agent. The photograph must be:

(a) provided by the recovery agent at the time of application;

(b) two inches wide by three inches high; and

(c) taken within the twelve months preceding the recovery agent’s application.

Section 37‑14‑110. (A) The department may refuse to issue or renew a license or may revoke or suspend a license if:

(1) the recovery agency that employs the recovery agent applying for a license is not authorized to do business in this State; or

(2) an applicant:

(a) makes a false statement of a material fact in the application;

(b) has been denied a license to work as a recovery agent or had a license not renewed, suspended, or revoked for a reason other than the nonpayment of licensing fees;

(c) has been convicted of a felony, crime of moral turpitude, or crime of dishonesty within the last ten years;

(d) has had a judgment entered against him in a civil action for forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, fraud, or conspiracy to commit fraud within the past ten years;

(e) fails to pay or satisfy a judgment debt or penalty imposed by a court;

(f) violates a provision of this chapter or regulation promulgated pursuant to this chapter;

(g) refuses to permit an investigation by the department as authorized by this chapter;

(h) fails to comply with an order of the department; or

(i) demonstrates incompetence or untrustworthiness to engage in the business of repossessing personal property.

(B) The department may not suspend or revoke a license issued pursuant to this chapter unless it gives the licensee notice and an opportunity for hearing in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court.

Section 37‑14‑120. (A) A licensee must be either:

(1) an individual who:

(a) is a citizen of the United States;

(b) is eighteen years of age or older; and

(c) possesses good moral character; or

(2) a corporation or association:

(a) organized and existing pursuant to the laws of the United States or any state;

(b) only controlled and directed by persons of good moral character; and

(c) only controlled and directed by persons who are eighteen years of age or older.

(B) In addition to the requirements in subsection (A), a person may not be an owner, partner, member, officer, or director of a recovery agency or a recovery agent if he is:

(1) adjudicated incompetent pursuant to the laws of any state, unless his capacity has been judicially restored;

(2) involuntarily placed in a treatment facility for the mentally ill pursuant to the laws of any state, unless his competency has been judicially restored;

(3) diagnosed as having an incapacitating mental illness, unless a psychologist or psychiatrist licensed in this State certifies that he does not currently suffer from the mental illness;

(4) found to be a chronic and habitual user of alcoholic beverages to the extent that his normal faculties are impaired; or

(5) committed for controlled substance abuse or found guilty of a crime pursuant to Chapter 53, Title 44 or a similar law relating to controlled substances in another state within a three-year period immediately preceding the date the application was filed, unless the individual establishes that he is not currently abusing controlled substances and has successfully completed a rehabilitation course.

Section 37‑14‑130. The department may deny an application upon a finding by clear and convincing evidence that an applicant lacks good moral character. The department must furnish the applicant a statement containing the findings, a complete record of the evidence upon which the department based the determination, and a notice of the applicant’s right to an administrative hearing and appeal.

Section 37‑14‑140. (A) A licensee must complete twenty–four hours of continuing professional education each year. Twelve of the twenty–four hours must be earned in a live instructional setting. The continuing education requirements must be met by:

(1) the owner of a sole proprietorship that holds a license;

(2) all partners in a partnership that holds a license;

(3) a person with a twenty–five percent or greater ownership interest in a limited liability company or corporation that holds a license and who actively participates in the organization’s management; or

(4) a recovery agent.

(B) The completed continuing professional education must be reported to the department annually on a form approved by the department. The form must indicate the date, title, instructor, sponsor, and credit hours claimed for course work completed. Courses taught in a classroom setting may provide one hour of continuing professional education credit for every fifty minutes of classroom instruction. Course sponsors must maintain an attendance record for two years following the date on which the course was taught.

(C) A licensee must maintain documentation of course work that an owner, partner, member, officer, or agent completes for a period of two years from the date on which the owner, partner, member, officer, or agent completed the course work. The documentation must consist of certification by the teacher or sponsor of the course indicating the number of hours of continuing professional education awarded. The department may inspect this documentation for two years after the date of the course.

(D) The department shall provide continuing professional education by:

(1) offering continuing professional education courses to assist licensees in obtaining the continuing professional education required by this chapter; and

(2) appointing a panel comprised of one representative of the department and two licensed members of the recovery industry to approve courses offered by sponsors, other than the department, as to their qualifications as continuing professional education. The panel may conduct its meetings by conference call. The department shall develop a questionnaire to ascertain the interest and background of potential members of this panel.

(E) The department shall enforce the continuing professional education requirement by:

(1) immediately suspending the license of a licensee who fails to complete his continuing professional education in a timely manner; and

(2) denying the renewal of a license until the licensee demonstrates compliance with the continuing professional education requirements, and if thirty days lapse after the license expires, pays a penalty of no more than one hundred dollars. If more than sixty days have lapsed since the license expired, a recovery agency shall apply pursuant to Section 37‑14‑50 and a recovery agent shall apply pursuant to Section 37‑14‑100.

(F) A licensee may request an administrative hearing to appeal the suspension of its license for failure to complete the continuing professional education requirements.

Section 37‑14‑150. (A) A license is valid for one year and expires on the thirty–first of May or as the administrator otherwise designates. A licensee may renew a license upon the submission of a renewal application and payment of a nonrefundable recovery agency license fee of five hundred dollars for the applicant’s primary office, a nonrefundable license fee of one hundred dollars for each branch location, or a nonrefundable recovery agent license fee of fifty dollars, as applicable, no later than thirty days prior to the license expiration date. A licensee must pay a delinquency fee of one hundred dollars if a license is not renewed within thirty days of the renewal date.

(B) In the event of the loss or destruction of a license, the licensee may file an affidavit explaining the loss or destruction and pay a fee of twenty dollars. The department shall then issue a duplicate license bearing the date and number of the replaced license.

(C) A licensee must make the public aware of its licensure by conspicuously and prominently displaying:

(1) its license number on a vehicle used for the purpose of repossession; and

(2) its license at the place of business stated in the license.

(D) The department may use fees collected pursuant to this chapter to administer the provisions of this chapter.

Section 37‑14‑160. (A) Within ten business days after the occurrence of one of the following events, a licensee shall file a written report with the department describing the event and its expected impact on the licensee’s business:

(1) a filing of bankruptcy, reorganization, or receivership proceedings by or against the licensee;

(2) an institution of a revocation, suspension, or other proceeding against the licensee related to a licensee’s recovery activity;

(3) a felony indictment or conviction of a licensee or its owner, partner, member, officer, director, trustee, beneficiaries, or principal;

(4) an opening of a new branch office;

(5) a transfer, issuance, cancellation or redemption of stock voting rights or membership amounting to ten percent or more of the total voting stock or memberships outstanding; or

(6) other events the department may provide by regulation.

(B) A recovery agent shall file a report with the department within ten days of the occurrence of:

(1) an indictment on felony charges;

(2) a conviction for breach of trust, moral turpitude, fraud, or dishonest dealing; or

(3) another event as the department may prescribe by regulation.

(C) A licensee shall provide written notice to the department within thirty days of obtaining a court approved settlement or entry by a court of a judgment in a civil action relating to repossession activities regarding a consumer.

(D) The department may require a licensee who fails to make a report required by this section to pay a late penalty of fifty dollars for each day the report is overdue.

(E) A licensee, within ten days of changing the street address or business name stated in his license, shall deliver the license to the department and provide written notification of the change or changes and submit a duplicate license fee of twenty dollars to the department. The department shall:

(1) enter the change or changes in its records, retain and file the surrendered license, and issue a duplicate license with the new information and the date and number of the surrendered license; and

(2) suspend a license on the tenth day following the expiration of the time provided in this section if the license has not been delivered to the department.

(F) A licensee shall file a new application pursuant to this section upon a change of:

(1) twenty–five percent or more of the ownership or management of a limited liability company or corporation holding a license; or

(2) the composition of a partnership holding a license.

(G) A recovery agency shall report annually to the department a summary of repossession activities conducted by the agency during the previous year. The report must be:

(1) filed with the department by April fifteenth;

(2) made on a form provided by the department; and

(3) made under oath.

Section 37‑14‑170. (A) A recovery agency shall:

(1) maintain and preserve in its primary office, or another appropriate location if a licensee’s license is terminated, canceled, or revoked, complete and accurate books, accounts, and records regarding recovery activities in this State so that the department may determine if the licensee is complying with the provisions of this chapter;

(2) maintain its books, accounts, and records from other businesses in which the organization is involved separate from those required in item (1); and

(3) retain its books, accounts, and records for three years.

(B) The department may examine the books, accounts, and records to determine compliance with this chapter.

(C) The department may enforce the provisions of this chapter and investigate a suspected violation.

(D) The department’s investigation may require a licensed person, unlicensed person, or an applicant to:

(1) respond to questions concerning activities regulated pursuant to this chapter;

(2) provide relevant records, which must be made available to the department immediately upon the department’s request unless the department grants an extension; and

(3) pay reasonable and necessary expenses for the department to examine records located outside of this State.

(E) The department may investigate a person who advertises that he performs a service that requires a license or when a licensee engages in an activity prohibited by this chapter. The department may seek an injunction of this activity or take other appropriate action pursuant to this chapter.

(F) An investigation conducted by the department pursuant to this chapter is exempt from disclosure under the South Carolina Freedom of Information Act provided in Chapter 4, Title 30 until the:

(1) department concludes its investigation and makes a determination about the existence of probable cause;

(2) case is closed prior to the department’s determination about the existence of probable cause; or

(3) subject of the investigation waives his privilege of confidentiality.

Section 37‑14‑180. A licensee must store a repossessed vehicle and other property in a secure facility separate from vehicles towed at the request of a vehicle’s legal owner or pursuant to another provision of law.

Section 37‑14‑190. (A) A recovery agency must maintain a complete and accurate inventory of personal property not covered by a security or rental agreement contained in a recovered vehicle, manufactured home, or motorboat.

(B) A recovery agency, within five working days after the date of repossession, shall give written notice to the debtor of the location of personal property inventoried pursuant to this section. Written notice required must include a conspicuous statement in boldface type in immediate proximity to the information regarding the location of the personal property inventoried that reads: ‘You may contact the South Carolina Department of Consumer Affairs if you have complaints concerning a personal property recovery agent or agency’. The current phone number, mailing address, and Internet website of the department must be included.

(C) The personal property not covered by a security interest must be held not less than thirty days after sending the required notice and must be made available to the debtor in the same county where the repossession occurred. A licensee may dispose of the property as provided in Section 29‑15‑10 if the debtor fails to seek recovery of the personal property within thirty days after the licensee sent notice.

Section 37‑14‑200. (A) A recovery agency:

(1) may not use a name not included on the recovery agency’s application for a license;

(2) may not have a conviction or enter a plea of guilty or nolo contendere regardless of the disposition for a felony or a crime of dishonesty or that directly relates to the business for which the license is held or sought;

(3) may not make a false statement about a current or past employee of the licensee;

(4) may not commit an act of fraud, deceit, negligence, incompetence, or misconduct while engaged in an activity regulated by this chapter;

(5) must maintain the general liability insurance coverage required by Section 37‑14‑90; and

(6) may not solicit business from an attorney in return for compensation.

(B) A recovery agency or agent:

(1) may not commit fraud or make a wilful misrepresentation in an application for a license;

(2) may not recover a motor vehicle, manufactured home, motorboat, or other personal property that has been sold under a conditional sales agreement or under the terms of a chattel mortgage before authorization has been received from the legal owner or mortgagee;

(3) may not charge for an expense not incurred in connection with the recovery, transportation, storage, or disposal of a motor vehicle, manufactured home, motorboat, or other personal property;

(4) may not transfer or attempt to transfer a license issued pursuant to this chapter, except as permitted in Section 37‑14‑160;

(5) may not use property obtained in a repossession for personal benefit;

(6) may not sell repossessed property without written authorization from its legal owner or mortgagee;

(7) shall notify the appropriate law enforcement agency of the jurisdiction in which the repossessed property is recovered within four hours after recovery and provide sufficient information to identify the vehicle recovered and provide the recovery company name and license number, and the lien holder;

(8) shall remit money collected instead of the recovery of a motor vehicle, manufactured home, motorboat, or other personal property within ten working days;

(9) shall deliver to the client a negotiable instrument that is payable to the client within ten working days after receipt of the instrument;

(10) may not falsify, alter, or fail to maintain a required inventory or record regarding disposal of personal property contained in or on a recovered motor vehicle, manufactured home, motorboat, or other personal property pursuant to Section 37‑14‑170;

(11) may not carry a firearm or weapon, as defined in Section 16–23–405, when performing duties authorized pursuant to a license issued pursuant to this chapter whether or not the recovery agency or agent is permitted to carry a firearm as provided in Article 4, Chapter 31, Title 23;

(12) may not solicit from the legal owner or mortgagee the recovery of property subject to repossession after the property has been seen or located on public or private property if the amount charged or requested for the recovery is more than the amount normally charged for a recovery of that nature;

(13) may not wear, present, or display a badge in the course of repossessing a motor vehicle, manufactured home, motorboat, or other personal property;

(14) shall cooperate with an authorized representative of the department engaged in an official investigation pursuant to this chapter;

(15) shall report to the department a violation of this chapter; and

(16) shall comply with all provisions of this chapter.

Section 37‑14‑210. Upon a violation of this chapter, the department may:

(1) impose a civil penalty of no more than two thousand five hundred dollars for a violation;

(2) impose a civil penalty of no more than ten thousand dollars for multiple violations of this chapter;

(3) order a refund of an unlawful or excessive fee charged to a consumer; and

(4) order compensation to a consumer for personal property damaged or not returned as required by this chapter.

Section 37‑14‑220. Within thirty days after the final decision of the department, an aggrieved party may file a request for a contested case hearing in accordance with the Administrative Procedures Act and the rules and procedures of the Administrative Law Court.

Section 37‑14‑230. A licensee is subject to the provisions of Sections 37‑5‑108 and 37‑5‑112.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this chapter, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect July 1, 2010.

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