

AMENDED IN ASSEMBLY APRIL 9, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1618

Introduced by Assembly Member Firebaugh

February 21, 2003

An act to amend Section 11713 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1618, as amended, Firebaugh. Vehicle dealers: sales: front license plate bracket.

Existing law prohibits the holder of certain occupational licenses issued by the Department of Motor Vehicles from engaging in certain practices, including, delivering, following the sale of a vehicle, a vehicle for operation on California highways that does not meet all of the statutory equipment requirements.

This bill would also prohibit, the delivery, after January 1, 2005, a motor vehicle, other than a motorcycle, that is not equipped with a front license plate bracket.

Because the violation of this prohibition would be a crime, this bill would impose a state-mandated program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

~~SECTION 1. Section 11713 of the Vehicle Code is amended~~

SECTION 1. *Section 11713 of the Vehicle Code is amended to read:*

11713. ~~No~~ A holder of ~~any~~ a license issued under this article ~~shall do any of~~ may not engage in the following practices:

(a) Make or disseminate, or cause to be made or disseminated, before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate, or cause to be so disseminated, any statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.

(b) (1) (A) Advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of the dealer or available to the dealer directly from the manufacturer or distributor of the vehicle at the time of the advertisement or offer. However, a dealer who has been issued an autobroker's endorsement to his or her dealer's license may advertise his or her service of arranging or negotiating the purchase of a new motor vehicle from a franchised new motor vehicle dealer and may specify the line-makes and models of those new vehicles. Autobrokering service advertisements may not advertise the price or payment terms of any vehicle and shall disclose that the advertiser is an autobroker or auto buying service, and shall clearly and conspicuously state the following: "All new cars arranged for sale are subject to price and availability from the selling franchised new car dealer."

(B) As to printed advertisements, the disclosure statement required by subparagraph (A) shall be printed in not less than 10-point bold type size and shall be textually segregated from the other portions of the printed advertisement.

(2) Notwithstanding subparagraph (A), classified advertisements for autobrokering services that measure two column inches or less are exempt from the disclosure statement in subparagraph (A) pertaining to price and availability.

(3) Radio advertisements of a duration of less than 11 seconds that do not reference specific line-makes or models of motor vehicles are exempt from the disclosure statement required in subparagraph (A).

(c) Fail, within 48 hours, in writing to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) Advertise or represent a vehicle as a new vehicle if the vehicle is a used vehicle.

(e) Engage in the business for which the licensee is licensed without having in force and effect a bond as required by this article.

(f) Engage in the business for which the dealer is licensed without at all times maintaining an established place of business as required by this code.

(g) Include, as an added cost to the selling price of a vehicle, an amount for licensing or transfer of title of the vehicle, which is not due to the state unless, prior to the sale, that amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of the fees. However, a dealer may collect from the second purchaser of a vehicle a prorated fee based upon the number of months remaining in the registration year for that vehicle, if the vehicle had been previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this code and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the vehicle.

(h) Employ any person as a salesperson who has not been licensed pursuant to Article 2 (commencing with Section 11800), and whose license is not displayed on the premises of the dealer as required by Section 11812, or willfully fail to notify the department by mail within 10 days of the employment or termination of employment of a salesperson.

(i) Deliver, following the sale, a vehicle for operation on California highways, if the vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000), *and deliver, after January 1, 2005, a motor*

1 *vehicle, other than a motorcycle, that is not equipped with a front*
2 *license plate bracket.* This subdivision does not apply to the sale
3 of a leased vehicle to the lessee if the lessee is in possession of the
4 vehicle immediately prior to the time of the sale and the vehicle is
5 registered in this state.

6 (j) Use, or permit the use of, the special plates assigned to him
7 or her for any purpose other than as permitted by Section 11715.

8 (k) Advertise or otherwise represent, or knowingly allow to be
9 advertised or represented on behalf of, or at the place of business
10 of, the licenseholder that no downpayment is required in
11 connection with the sale of a vehicle when a downpayment is in
12 fact required and the buyer is advised or induced to finance the
13 downpayment by a loan in addition to any other loan financing the
14 remainder of the purchase price of the vehicle. The terms “no
15 downpayment,” “zero down delivers,” or similar terms shall not
16 be advertised unless the vehicle will be sold to any qualified
17 purchaser without a prior payment of any kind or trade-in.

18 (l) Participate in the sale of a vehicle required to be reported to
19 the Department of Motor Vehicles under Section 5900 or 5901
20 without making the return and payment of the full sales tax due and
21 required by Section 6451 of the Revenue and Taxation Code.

22 (m) Permit the use of the dealer’s license, supplies, or books by
23 any other person for the purpose of permitting that person to
24 engage in the purchase or sale of vehicles required to be registered
25 under this code, or permit the use of the dealer’s license, supplies,
26 or books to operate a branch location to be used by any other
27 person, whether or not the licensee has any financial or equitable
28 interest or investment in the vehicles purchased or sold by, or the
29 business of, or branch location used by, the other person.

30 (n) Violate any provision of Article 10 (commencing with
31 Section 28050) of Chapter 5 of Division 12.

32 (o) Sell a previously unregistered vehicle without disclosing in
33 writing to the purchaser the date on which any manufacturer’s or
34 distributor’s warranty commenced.

35 (p) Accept a purchase deposit relative to the sale of a vehicle,
36 unless the vehicle is present at the premises of the dealer or
37 available to the dealer directly from the manufacturer or
38 distributor of the vehicle at the time the dealer accepts the deposit.
39 Purchase deposits accepted by an autobroker when brokering a
40 retail sale shall be governed by Sections 11736 and 11737.

(q) Consign for sale to another dealer a new vehicle.

(r) Display a vehicle for sale at a location other than an established place of business authorized by the department for that dealer or display a new motor vehicle at the business premises of another dealer registered as an autobroker. This subdivision does not apply to the display of a vehicle pursuant to subdivision (b) of Section 11709 or the demonstration of the qualities of a motor vehicle by way of a test drive.

(s) Use a picture in connection with any advertisement of the price of a specific vehicle or class of vehicles, unless the picture is of the year, make and model being offered for sale. The picture shall not depict a vehicle with optional equipment or a design not actually offered at the advertised price.

(t) Advertise a vehicle for sale that was used by the selling licensee in its business as a demonstrator, executive vehicle, service vehicle, rental, loaner, or lease vehicle, unless the advertisement clearly and conspicuously discloses the previous use made by that licensee of the vehicle. An advertisement shall not describe any of those vehicles as “new.”

~~to read:~~

~~11713. — No holder of any license issued under this article shall do any of the following:~~

~~(a) Make or disseminate, or cause to be made or disseminated, before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate, or cause to be so disseminated, any statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.~~

~~(b) (1) (A) Advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of the dealer or available to the dealer directly from the manufacturer or distributor of the vehicle at the time of the advertisement or offer. However, a dealer who has been issued an autobroker's endorsement to his or her dealer's license may advertise his or her service of arranging or negotiating the purchase of a new motor vehicle from a franchised new motor vehicle dealer and may~~

~~1 specify the line makes and models of those new vehicles.
2 Autobrokering service advertisements may not advertise the price
3 or payment terms of any vehicle and shall disclose that the
4 advertiser is an autobroker or auto buying service, and shall clearly
5 and conspicuously state the following: "All new cars arranged for
6 sale are subject to price and availability from the selling franchised
7 new car dealer."~~

~~8 (B) As to printed advertisements, the disclosure statement
9 required by subparagraph (A) shall be printed in not less than
10 10-point bold type size and shall be textually segregated from the
11 other portions of the printed advertisement.~~

~~12 (2) Notwithstanding — subparagraph — (A), — classified
13 advertisements for autobrokering services that measure two
14 column inches or less are exempt from the disclosure statement in
15 subparagraph (A) pertaining to price and availability.~~

~~16 (3) Radio advertisements of a duration of less than 11 seconds
17 that do not reference specific line makes or models of motor
18 vehicles are exempt from the disclosure statement required in
19 subparagraph (A).~~

~~20 (c) Fail, within 48 hours, in writing to withdraw any
21 advertisement of a vehicle that has been sold or withdrawn from
22 sale.~~

~~23 (d) Advertise or represent a vehicle as a new vehicle if the
24 vehicle is a used vehicle.~~

~~25 (e) Engage in the business for which the licensee is licensed
26 without having in force and effect a bond as required by this article.~~

~~27 (f) Engage in the business for which the dealer is licensed
28 without at all times maintaining an established place of business
29 as required by this code.~~

~~30 (g) Include, as an added cost to the selling price of a vehicle, an
31 amount for licensing or transfer of title of the vehicle, which is not
32 due to the state unless, prior to the sale, that amount has been paid
33 by a dealer to the state in order to avoid penalties that would have
34 accrued because of late payment of the fees. However, a dealer
35 may collect from the second purchaser of a vehicle a prorated fee
36 based upon the number of months remaining in the registration
37 year for that vehicle, if the vehicle had been previously sold by the
38 dealer and the sale was subsequently rescinded and all the fees that
39 were paid, as required by this code and Chapter 2 (commencing~~

1 ~~with Section 10751) of Division 2 of the Revenue and Taxation~~
2 ~~Code, were returned to the first purchaser of the vehicle.~~

3 ~~(h) Employ any person as a salesperson who has not been~~
4 ~~licensed pursuant to Article 2 (commencing with Section 11800),~~
5 ~~and whose license is not displayed on the premises of the dealer as~~
6 ~~required by Section 11812, or willfully fail to notify the~~
7 ~~department by mail within 10 days of the employment or~~
8 ~~termination of employment of a salesperson.~~

9 ~~(i) Deliver, following the sale, a vehicle for operation on~~
10 ~~California highways, if the vehicle does not meet all of the~~
11 ~~equipment requirements of Division 12 (commencing with~~
12 ~~Section 24000), and deliver, after January 1, 2005, a motor~~
13 ~~vehicle, other than a motorcycle, that is not equipped with a front~~
14 ~~license plate bracket. This subdivision does not apply to the sale~~
15 ~~of a leased vehicle to the lessee if the lessee is in possession of the~~
16 ~~vehicle immediately prior to the time of the sale and the vehicle is~~
17 ~~registered in this state.~~

18 ~~(j) Use, or permit the use of, the special plates assigned to him~~
19 ~~or her for any purpose other than as permitted by Section 11715.~~

20 ~~(k) Advertise or otherwise represent, or knowingly allow to be~~
21 ~~advertised or represented on behalf of, or at the place of business~~
22 ~~of, the licenseholder that no downpayment is required in~~
23 ~~connection with the sale of a vehicle when a downpayment is in~~
24 ~~fact required and the buyer is advised or induced to finance the~~
25 ~~downpayment by a loan in addition to any other loan financing the~~
26 ~~remainder of the purchase price of the vehicle.~~

27 ~~(l) Participate in the sale of a vehicle required to be reported~~
28 ~~to the Department of Motor Vehicles under Section 5900 or 5901~~
29 ~~without making the return and payment of the full sales tax due and~~
30 ~~required by Section 6451 of the Revenue and Taxation Code.~~

31 ~~(m) Permit the use of the dealer's license, supplies, or books by~~
32 ~~any other person for the purpose of permitting that person to~~
33 ~~engage in the purchase or sale of vehicles required to be registered~~
34 ~~under this code, or permit the use of the dealer's license, supplies,~~
35 ~~or books to operate a branch location to be used by any other~~
36 ~~person, whether or not the licensee has any financial or equitable~~
37 ~~interest or investment in the vehicles purchased or sold by, or the~~
38 ~~business of, or branch location used by, the other person.~~

39 ~~(n) Violate any provision of Article 10 (commencing with~~
40 ~~Section 28050) of Chapter 5 of Division 12.~~

~~(c) Sell a previously unregistered vehicle without disclosing in writing to the purchaser the date on which any manufacturer's or distributor's warranty commenced.~~

~~(p) Accept a purchase deposit relative to the sale of a vehicle, unless the vehicle is present at the premises of the dealer or available to the dealer directly from the manufacturer or distributor of the vehicle at the time the dealer accepts the deposit. Purchase deposits accepted by an autobroker when brokering a retail sale shall be governed by Sections 11736 and 11737.~~

~~(q) Consign for sale to another dealer a new vehicle.~~

~~(r) Display a vehicle for sale at a location other than an established place of business authorized by the department for that dealer or display a new motor vehicle at the business premises of another dealer registered as an autobroker. This subdivision does not apply to the display of a vehicle pursuant to subdivision (b) of Section 11709 or the demonstration of the qualities of a motor vehicle by way of a test drive.~~

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~