

AMENDED IN ASSEMBLY JUNE 10, 2014

AMENDED IN ASSEMBLY JUNE 4, 2014

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 22, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 686

Introduced by Senator Jackson

(Principal coauthor: Assembly Member Dickinson)

(Coauthor: Senator Monning)

(Coauthor: Assembly Member Bonta)

February 22, 2013

An act to add Sections ~~390, 390 and~~ 11713.27, ~~and 11713.28 to, to~~ the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 686, as amended, Jackson. Vehicles: vehicle dealers.

Existing law prohibits a licensed dealer from engaging in certain practices, including, among others, making an untrue or misleading statement indicating that a vehicle is equipped with all the factory-installed optional equipment the manufacturer offers. Under existing law, a violation of these provisions is a crime.

This bill would, subject to exceptions, additionally prohibit a dealer from ~~selling, leasing, renting, loaning,~~ or otherwise transferring ownership at retail of a used vehicle, as specified, if the dealer knows or should have known that the vehicle is subject to a manufacturer's

safety recall, unless the repairs required to correct the defect have been performed on the vehicle. ~~The bill would, subject to exceptions, additionally prohibit a rental company that is also a dealer from selling or otherwise transferring ownership at retail of a used vehicle, if the rental company knows or should have known that the vehicle is subject to a manufacturer's safety recall, unless the repairs required to correct the defect have been performed on the vehicle.~~ The bill would define the term “manufacturer’s safety recall.” Because a violation of these provisions would be a crime under other provisions of existing law, the bill would impose a state-mandated local program. The bill would also make a violation of these provisions actionable under the Consumers Legal Remedies Act and the Unfair Competition Law, and as false advertising.

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:

1 SECTION 1. Section 390 is added to the Vehicle Code, to read:
2 390. ~~“Manufacturers—~~“*Manufacturer’s* safety recall” means a
3 recall pursuant to Section 30118 of Title 49 of the United States
4 Code, ~~of the National Highway Traffic and Motor Vehicle Safety~~
5 Act (49 U.S.C. Sec. 30101, et seq.). It does not include service
6 campaigns or emission recalls where the manufacturer has not
7 issued a safety recall notice to owners of affected vehicles, pursuant
8 to Section 30118 of Title 49 of the United States Code.
9 SEC. 2. Section 11713.27 is added to the Vehicle Code, to
10 read:
11 11713.27. (a) ~~Except for a rental company, as defined in~~
12 ~~Section 1936 of the Civil Code,~~ a dealer issued a license under
13 this article shall not ~~sell, lease, rent, loan,~~ *sell* or otherwise transfer
14 ownership at retail of a used vehicle, as defined in Section 665
15 and subject to registration under this code, including any used
16 vehicle advertised as “certified” or any similar descriptive term,
17 if the dealer knows or should have known that the vehicle is subject

1 to a manufacturer’s safety recall, unless the repairs required to
2 correct the defect have been performed on the vehicle. This section
3 does not apply to transfers or sales by a dealer to another dealer,
4 an auto auction, or a manufacturer.

5 (b) For purposes of this section, a dealer is deemed to have
6 knowledge of a manufacturer’s safety recall if any of the following
7 applies:

8 (1) The dealer receives notification from the manufacturer of
9 the vehicle about the manufacturer’s safety recall for that vehicle,
10 pursuant to subdivision (b) or (c) of Section 30118 or Section
11 30119 of Title 49 of the United States Code.

12 (2) The dealer is a franchisee of the manufacturer, or was a
13 franchisee of the manufacturer at the time the manufacturer issued
14 the notice of the safety recall.

15 (3) Prior to the ~~sale, lease, loan, rental,~~ *sale* or other transfer of
16 ownership at retail of the vehicle, the manufacturer has made
17 information about the manufacturer’s safety recall regarding the
18 specific vehicle available on the manufacturer’s Internet Web site,
19 searchable by the vehicle identification number, stating that the
20 manufacturer’s safety recall repairs have not been performed.

21 (c) A violation of this section is actionable under the Consumers
22 Legal Remedies Act (Title 1.5 (commencing with Section 1750)
23 of Part 4 of Division 3 of the Civil Code), the Unfair Competition
24 Law (Chapter 5 (commencing with Section 17200) of Part 2 of
25 Division 7 of the Business and Professions Code), Section 17500
26 of the Business and Professions Code, and any other applicable
27 state or federal law. The rights and remedies provided by this
28 section are cumulative and shall not be construed as restricting
29 any right or remedy that is otherwise available.

30 ~~SEC. 3. Section 11713.28 is added to the Vehicle Code, to~~
31 ~~read:~~

32 ~~11713.28. (a) A rental company, as defined in Section 1936~~
33 ~~of the Civil Code, that is also a dealer licensed under this article~~
34 ~~shall not sell or otherwise transfer ownership at retail of a used~~
35 ~~vehicle, as defined in Section 665 and subject to registration under~~
36 ~~this code, including any used vehicle advertised as “certified” or~~
37 ~~any similar descriptive term, if the rental company knows or should~~
38 ~~have known that the vehicle is subject to a manufacturer’s safety~~
39 ~~recall, unless the repairs required to correct the defect have been~~
40 ~~performed on the vehicle. This section does not apply to transfers~~

1 or sales by a rental company to a dealer, an auto auction, or a
2 manufacturer.

3 (b) For purposes of this section, a rental company is deemed to
4 have knowledge of a manufacturer’s safety recall if either of the
5 following applies:

6 (1) The rental company receives notification from the
7 manufacturer of the vehicle of the manufacturer’s safety recall for
8 that vehicle pursuant to subdivision (b) or (c) of Section 30118 or
9 Section 30119 of Title 49 of the United States Code.

10 (2) Prior to the sale or other transfer of ownership at retail of
11 the vehicle, the manufacturer has made information about the
12 manufacturer’s safety recall regarding the specific vehicle available
13 on the manufacturer’s Internet Web site, searchable by the vehicle
14 identification number, stating that the manufacturer’s safety recall
15 repairs have not been performed.

16 (e) A violation of this section is actionable under the Consumers
17 Legal Remedies Act (Title 1.5 (commencing with Section 1750)
18 of Part 4 of Division 3 of the Civil Code), the Unfair Competition
19 Law (Chapter 5 (commencing with Section 17200) of Part 2 of
20 Division 7 of the Business and Professions Code), Section 17500
21 of the Business and Professions Code, and any other applicable
22 state or federal law. The rights and remedies provided by this
23 section are cumulative and shall not be construed as restricting
24 any right or remedy that is otherwise available.

25 ~~SEC. 4.~~

26 *SEC. 3.* No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.