

ASSEMBLY BILL

No. 1381

Introduced by Assembly Member Speier

February 24, 1995

An act to amend Section 1793.25 of, and to repeal Section 1795.8 of, the Civil Code, and to amend Section 4453 of, and to add Sections 11713.10, 11713.11, and 11713.12 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1381, as introduced, Speier. Vehicles: Automotive Consumer Notification Act.

Existing provisions of the Civil Code, the Automotive Consumer Notification Act, require the seller of a vehicle to include a specified disclosure if that vehicle has been returned, or should have been returned, to the dealer or manufacturer, as specified, for failure to conform to warranties, as specified.

This bill would revise and recast the Automotive Consumer Notification Act within the provisions of the Vehicle Code. The bill would require the manufacturer to retitle specified defective vehicles in its name, request the Department of Motor Vehicles to inscribe the ownership certificate with a specified notation, affix a specified notice to the left doorframe of the vehicle, deliver a specified notice to the buyer of the vehicle, and obtain the buyer's acknowledgment. The bill would provide that it shall apply only to vehicles reacquired by a manufacturer on or after the effective date

of the act. The bill would make legislative findings and declarations. The bill would also make conforming changes.

By creating new infractions under the provisions of the Vehicle Code, this bill would impose a state-mandated local 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:

1 SECTION 1. Section 1793.25 of the Civil Code is
 2 amended to read:
 3 1793.25. (a) Notwithstanding Part 1 (commencing
 4 with Section 6001) of Division 2 of the Revenue and
 5 Taxation Code, the State Board of Equalization shall
 6 reimburse the manufacturer of a new motor vehicle for
 7 an amount equal to the sales tax which the manufacturer
 8 *pays to or for the buyer when providing a replacement*
 9 *vehicle pursuant to subparagraph (A) of paragraph (2)*
 10 *of subdivision (d) of Section 1793.2 or includes in making*
 11 *restitution to the buyer pursuant to subparagraph (B) of*
 12 *paragraph (2) of subdivision (d) of Section 1793.2, when*
 13 *satisfactory proof is provided that the retailer of the*
 14 *motor vehicle for which the manufacturer is making*
 15 *restitution has reported and paid the sales tax on the gross*
 16 *receipts from the sale of that motor vehicle and the*
 17 *manufacturer provides satisfactory proof that it has*
 18 *complied with the provisions of subdivision (b) of Section*
 19 *11713.10 of the Vehicle Code. The State Board of*
 20 *Equalization may adopt rules and regulations to carry*
 21 *out, facilitate compliance with, or prevent circumvention*
 22 *or evasion of, this section.*
 23 (b) Nothing in this section shall in any way change the
 24 application of the sales and use tax to the gross receipts



1 and the sales price from the sale, and the storage, use, or
2 other consumption, in this state or tangible personal
3 property pursuant to Part 1 (commencing with Section
4 6001) of Division 2 of the Revenue and Taxation Code.

5 (c) The manufacturer's claim for reimbursement and
6 the board's approval or denial of the claim shall be subject
7 to the provisions of Article 1 (commencing with Section
8 6901) of Chapter 7 of Part 1 of Division 2 of the Revenue
9 and Taxation Code, except Sections 6902.1, 6903, 6907, and
10 6908 thereof, insofar as those provisions are not
11 inconsistent with this section.

12 SEC. 2. Section 1795.8 of the Civil Code is repealed.

13 ~~1795.8. (a) The Legislature finds and declares that~~
14 ~~the expansion of state warranty laws covering new and~~
15 ~~used cars has given important and valuable protection to~~
16 ~~consumers; that in states without this valuable warranty~~
17 ~~protection used and irreparable motor vehicles are~~
18 ~~inundating the marketplace; that other states have~~
19 ~~addressed this problem by requiring notices on the titles~~
20 ~~of these vehicles warning consumers that the motor~~
21 ~~vehicles were repurchased by a dealer or manufacturer~~
22 ~~because either the vehicle could not be repaired in a~~
23 ~~reasonable length of time or the dealer or manufacturer~~
24 ~~was not willing to repair the vehicle; that these notices~~
25 ~~serve the interests of consumers who have a right to~~
26 ~~information relevant to their buying decisions; and that~~
27 ~~the disappearance of these notices upon the transfer of~~
28 ~~title from another state to this state encourages the~~
29 ~~transport of "lemons" to this state for sale to the drivers~~
30 ~~of this state. Therefore, the Legislature hereby enacts the~~
31 ~~Automotive Consumer Notification Act.~~

32 ~~(b) For purposes of this section, "dealer" means any~~
33 ~~person engaged in the business of selling, offering for sale,~~
34 ~~or negotiating the retail sale of used motor vehicles or~~
35 ~~selling motor vehicles as a broker or agent for another,~~
36 ~~including the officers, agents, and employees of the~~
37 ~~person and any combination or association of dealers.~~
38 ~~"Dealer" does not include a bank or other financial~~
39 ~~institution, or the state, its agencies, bureaus, boards,~~
40 ~~commissions, authorities, or any of its political~~



1 subdivisions. A person shall be deemed to be engaged in
2 the business of selling used motor vehicles if the person
3 has sold more than four used motor vehicles in the
4 preceding 12 months.

5 (e) Any person, including any dealer or manufacturer,
6 selling a motor vehicle in this state that is known or should
7 be known to have been required by law to be replaced or
8 required by law to be accepted for restitution by a
9 manufacturer due to the inability of the manufacturer to
10 conform the vehicle to applicable warranties pursuant to
11 subdivision (d) of Section 1793.2 or that is known or
12 should be known to have been required by law to be
13 replaced or required by law to be accepted for restitution
14 by a dealer or manufacturer due to the inability of the
15 dealer or manufacturer to conform the vehicle to
16 warranties required by any other applicable law of this
17 state, any other state, or federal law shall disclose that fact
18 to the buyer in writing prior to the purchase and a dealer
19 or manufacturer shall include as part of the titling
20 documents of the vehicle the following disclosure
21 statement set forth as a separate document and signed by
22 the buyer:

23 “THIS MOTOR VEHICLE HAS BEEN RETURNED
24 TO THE DEALER OR MANUFACTURER DUE TO A
25 DEFECT IN THE VEHICLE PURSUANT TO
26 CONSUMER WARRANTY LAWS.”

27 (d) The disclosure requirement in subdivision (e) is
28 cumulative with all other consumer notice requirements,
29 and does not relieve any person, including any dealer or
30 manufacturer, from complying with any other applicable
31 law, including any requirement of subdivision (f) of
32 Section 1793.22 or comparable automobile warranty laws
33 in other states.

34 SEC. 3. Section 4453 of the Vehicle Code is amended
35 to read:

36 4453. (a) The registration card shall contain upon its
37 face, the date issued, the name and residence or business
38 address of the owner and of the legal owner, if any, the
39 registration number assigned to the vehicle, and a



1 description of the vehicle as complete as that required in
2 the application for registration of the vehicle.

3 (b) A motor vehicle of a type included in this
4 subdivision shall be identified as such on the face of the
5 registration card, whenever the department is able to
6 ascertain that fact, at the time application is made for
7 initial registration or transfer of ownership of the vehicle.

8 (1) A motor vehicle rebuilt and restored to operation
9 which was previously declared to be a total loss salvage
10 vehicle because the cost of repairs exceeds the retail value
11 of the vehicle.

12 (2) A motor vehicle rebuilt and restored to operation
13 which was previously reported to be dismantled pursuant
14 to Section 11520.

15 (3) A motor vehicle previously registered to a law
16 enforcement agency and operated in law enforcement
17 work.

18 (4) A motor vehicle formerly operated as a taxicab.

19 (5) A motor vehicle manufactured outside of the
20 United States and not intended by the manufacturer for
21 sale in the United States.

22 (6) A park trailer, as described in subdivision (b) of
23 Section 18010 of the Health and Safety Code, which when
24 moved upon the highway is required to be moved under
25 a permit pursuant to Section 35780.

26 (7) A motor vehicle ~~returned to a dealer or~~
27 ~~manufacturer pursuant to a consumer warranty law due~~
28 ~~to a defect, including vehicles with out-of-state titling~~
29 ~~documents that reflect a return.~~ *that has been reacquired*
30 *under circumstances described in subdivision (b) of*
31 *Section 11713.10, a vehicle with out-of-state titling*
32 *documents reflecting a warranty return, or a vehicle that*
33 *has been identified by an agency of another state as*
34 *requiring a warranty return title notation, pursuant to the*
35 *laws of that state. The notation made on the face of the*
36 *registration and pursuant to this subdivision shall state*
37 *“lemon buy back.”*

38 (c) The director may modify the form, arrangement,
39 and information appearing on the face of the registration
40 card and may provide for standardization and



1 abbreviation of fictitious or firm names on the
2 registration card whenever the director finds that the
3 efficiency of the department will be promoted by so
4 doing, except that general delivery or post office box
5 numbers shall not be permitted as the address of the
6 registered owner unless there is no other address.

7 SEC. 4. Section 11713.10 is added to the Vehicle Code,
8 to read:

9 11713.10. (a) The Legislature finds and declares that
10 the expansion of state warranty laws covering new and
11 used cars has given important and valuable protection to
12 consumers; that in states without this valuable warranty
13 protection used and irreparable motor vehicles are
14 inundating the marketplace; that other states have
15 addressed this problem by requiring notices on the title
16 of these vehicles or other notice procedures to warn
17 consumers that the motor vehicles were repurchased by
18 a dealer or manufacturer because either the vehicle could
19 not be repaired in a reasonable length of time, a
20 reasonable number of repair attempts, or the dealer or
21 manufacturer was not willing to repair the vehicle; that
22 these notices serve the interests of consumers who have
23 a right to information relevant to their buying decisions;
24 and that the disappearance of these notices upon the
25 transfer of title from another state to this state encourages
26 the transport of "lemons" to this state for sale to the
27 drivers of this state. Therefore, the Legislature hereby
28 enacts the Automotive Consumer Notification Act.

29 (b) Any manufacturer who reacquires or assists a
30 dealer to reacquire a vehicle registered in this state, any
31 other state, or a federally administered district shall, prior
32 to any resale, lease, or transfer of the vehicle in this state,
33 cause the vehicle to be retitled in the name of the
34 manufacturer; request the department to inscribe the
35 ownership certificate with the notation "lemon buy
36 back"; and affix a notice to the left doorframe of the
37 vehicle in accordance with the provisions of Section
38 11713.12, in either of the following circumstances:

39 (1) The vehicle was required, pursuant to a court
40 order or a decision rendered through a third-party



1 dispute resolution process, to be replaced or accepted for
2 restitution by the manufacturer due to the inability of the
3 manufacturer to conform the vehicle to an express
4 warranty of the manufacturer.

5 (2) Within one year from delivery of a new vehicle to
6 the buyer or lessee or 12,000 miles on the odometer of the
7 vehicle, whichever occurs first, either (A) the vehicle was
8 the subject of four or more attempts by the manufacturer
9 or its agents to repair the same nonconformity or (B) the
10 vehicle was out of service by reason of repair of
11 nonconformities by the manufacturer or its agents for a
12 cumulative total of more than 30 calendar days since
13 delivery of the vehicle to the buyer.

14 (c) Any manufacturer who reacquires or assists a
15 dealer to reacquire a vehicle to resolve an express
16 warranty dispute between the buyer or lessee and the
17 manufacturer shall, prior to resale, execute and deliver to
18 the subsequent buyer a notice and obtain the buyer's
19 written acknowledgment of a notice, as prescribed by
20 Section 11713.11.

21 (d) Any dealer who knowingly purchases for resale a
22 vehicle that has been reacquired in order to resolve an
23 express warranty dispute between the last retail owner of
24 the reacquired vehicle and the vehicle's manufacturer
25 shall, prior to resale, execute and deliver to the
26 subsequent buyer a notice and obtain the buyer's written
27 acknowledgment of a notice, as prescribed by Section
28 11713.11.

29 (e) The disclosure requirements in subdivisions (c)
30 and (d) are in addition to all other consumer notice
31 requirements and do not relieve any person, including
32 any dealer or manufacturer, from complying with any
33 other applicable law, including any requirement of
34 subdivision (f) of Section 1793.22 of the Civil Code.

35 SEC. 5. Section 11713.11 is added to the Vehicle Code,
36 to read:

37 11713.11. (a) The notice required in subdivisions (c)
38 and (d) of Section 11713.10 shall disclose the following:

39 (1) Year, make, model, and vehicle identification
40 number of the vehicle.



1 (2) Whether the title to the vehicle has been inscribed
2 with the notation "lemon buy back."

3 (3) The nature of any nonconformity experienced by
4 the original buyer or lessee of the vehicle.

5 (4) Repairs, if any, made to the vehicle in an attempt
6 to correct any nonconformity experienced by the original
7 buyer or lessee.

8 (b) The notice shall be on a form 8 x 11¹/₂ inches in
9 size; printed in no smaller than 10-point black type on a
10 white background. The form shall only contain the
11 following information prior to it being filled out by the
12 manufacturer or dealer:

13
14 WARRANTY BUY BACK NOTICE

15
16
17 (Check one or both, as applicable)

18
19 This vehicle was reacquired by the vehicle's
20 manufacturer in resolution of a warranty dispute
21 between the original owner/lessee and the
22 manufacturer.

23 The title to this vehicle has been permanently
24 branded with the notation "lemon buy back."

VIN	Year	Make	Model
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Problem(s) Reported by Original Owner	Repairs Made, if any, to Correct Reported Problem(s)

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Seller's Signature	Date
_____	_____
Buyer's Signature	Date
_____	_____
Co-Buyer's Signature (If applicable)	Date

(c) A copy of the notice shall be provided to the buyer.

SEC. 6. Section 11713.12 is added to the Vehicle Code, to read:

11713.12. (a) The notice required by subdivision (b) of Section 11713.10 to be affixed by a manufacturer to the left doorframe of a vehicle shall specify that title to the vehicle has been inscribed with the notation 'lemon buy back.'

(b) No person shall knowingly remove or alter any notice affixed to a vehicle pursuant to subdivision (a), whether or not licensed under this code.

SEC. 7. This act shall apply only to vehicles reacquired by a manufacturer on or after the effective date of this act.

SEC. 8. 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



1 for a crime or infraction, within the meaning of Section
2 17556 of the Government Code, or changes the definition
3 of a crime within the meaning of Section 6 of Article
4 XIII B of the California Constitution.

5 Notwithstanding Section 17580 of the Government
6 Code, unless otherwise specified, the provisions of this act
7 shall become operative on the same date that the act
8 takes effect pursuant to the California Constitution.

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