

AMENDED IN SENATE JUNE 14, 1995  
AMENDED IN ASSEMBLY APRIL 26, 1995  
AMENDED IN ASSEMBLY APRIL 5, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1381**

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**Introduced by Assembly Member Speier**

February 24, 1995

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An act to amend Section 1793.25 of, *to add Sections 1793.23 and 1793.24 to*, 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 *Section 11713.12* to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1381, as amended, 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~~ *to, among other things,* 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 decal to the left doorframe of the vehicle, deliver a specified notice to the transferee of the vehicle, and obtain the transferee's acknowledgment. ~~The bill would provide that any person damaged by the failure of a manufacturer or dealer to comply with these requirements, as specified, shall have the same rights and remedies as those provided to a buyer of consumer goods by specified provisions relating to warranty.~~ 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 *a new infraction* 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 1793.23 is added to the Civil*  
 2 *Code, to read:*  
 3  
 4 *1793.23. (a) The Legislature finds and declares all of*  
 5 *the following:*  
 6 *(1) That the expansion of state warranty laws covering*  
 7 *new and used cars has given important and valuable*  
 8 *protection to consumers.*  
 9 *(2) That, in states without this valuable warranty*  
 10 *protection, used and irreparable motor vehicles are*  
 11 *being resold in the marketplace without notice to the*  
 12 *subsequent purchaser.*



1 (3) That other states have addressed this problem by  
2 requiring notices on the title of these vehicles or other  
3 notice procedures to warn consumers that the motor  
4 vehicles were repurchased by a dealer or manufacturer  
5 because the vehicle could not be repaired in a reasonable  
6 length of time or a reasonable number of repair attempts  
7 or the dealer or manufacturer was not willing to repair  
8 the vehicle.

9 (4) That these notices serve the interests of consumers  
10 who have a right to information relevant to their buying  
11 decisions.

12 (5) That the disappearance of these notices upon the  
13 transfer of title from another state to this state encourages  
14 the transport of "lemons" to this state for sale to the  
15 drivers of this state.

16 (b) This section and Section 1793.24 shall be known,  
17 and may be cited as, the Automotive Consumer  
18 Notification Act.

19 (c) Any manufacturer who reacquires or assists a  
20 dealer or lienholder to reacquire a vehicle registered in  
21 this state, any other state, or a federally administered  
22 district shall, prior to any sale, lease, or transfer of the  
23 vehicle in this state, or prior to exporting the vehicle to  
24 another state for sale, lease or transfer if the vehicle was  
25 registered in this state immediately prior to it being  
26 reacquired, cause the vehicle to be retitled in the name  
27 of the manufacturer, request the Department of Motor  
28 Vehicles to inscribe the ownership certificate with the  
29 notation "lemon buy back," and affix a decal to the left  
30 doorframe of the vehicle in accordance with Section  
31 11713.12 of the Vehicle Code, in any of the following  
32 circumstances:

33 (1) The vehicle was reacquired after the buyer or  
34 lessee made a written request to the manufacturer to  
35 replace the vehicle or make a refund and the written  
36 request was made after either (A) the vehicle was the  
37 subject of four or more attempts by the manufacturer or  
38 its agents to repair the same nonconformity within one  
39 year from delivery of the new vehicle to the buyer or  
40 lessee or 12,000 miles on the odometer of the vehicle,



1 *whichever occurred first, or (B) the vehicle was out of*  
2 *service by reason of repair of nonconformities by the*  
3 *manufacturer or its agents for a cumulative total of more*  
4 *than 30 calendar days since delivery of the vehicle to the*  
5 *buyer or lessee and within one year from delivery of the*  
6 *new vehicle to the buyer or lessee or 12,000 miles on the*  
7 *odometer of the vehicle, whichever occurred first.*

8 (2) *The vehicle was reacquired during the pendency*  
9 *of an arbitration proceeding between the manufacturer*  
10 *and the buyer or lessee which alleged a cause of action*  
11 *under subdivision (d) of Section 1793.2, or was reacquired*  
12 *within six months of the dismissal or final adjudication of*  
13 *that arbitration proceeding.*

14 (3) *The vehicle was reacquired during the pendency*  
15 *of a law suit between the manufacturer and the buyer*  
16 *which alleged a cause of action under subdivision (d) of*  
17 *Section 1793.2, or was reacquired within six months of the*  
18 *dismissal or final adjudication of that law suit.*

19 (4) *The vehicle was reacquired, pursuant to a court*  
20 *order or a decision rendered through a third-party*  
21 *dispute resolution process.*

22 (d) *Any manufacturer who reacquires or assists a*  
23 *dealer or lienholder to reacquire a vehicle in order to*  
24 *resolve an express warranty dispute between the buyer*  
25 *or lessee and the manufacturer shall, prior to sale, lease,*  
26 *or other transfer of the vehicle, execute and deliver to the*  
27 *subsequent transferee a notice and obtain the transferee's*  
28 *written acknowledgment of a notice, as prescribed by*  
29 *Section 1793.24.*

30 (e) *Any dealer who knowingly purchases for resale a*  
31 *vehicle that has been reacquired in order to resolve an*  
32 *express warranty dispute between the last retail owner of*  
33 *the reacquired vehicle and the vehicle's manufacturer*  
34 *shall, prior to sale, lease, or other transfer, execute and*  
35 *deliver to the subsequent transferee a notice and obtain*  
36 *the transferee's written acknowledgment of a notice, as*  
37 *prescribed by Section 1793.24.*

38 (f) *The disclosure requirements in subdivisions (d)*  
39 *and (e) are in addition to all other consumer notice*  
40 *requirements and do not relieve any person, including*



1 any dealer or manufacturer, from complying with any  
2 other applicable law, including any requirement of  
3 subdivision (f) of Section 1793.22.

4 (g) For purposes of this section, “dealer” has the same  
5 meaning as defined in Section 285 of the Vehicle Code.

6 SEC. 2. Section 1793.24 is added to the Civil Code, to  
7 read:

8 1793.24. (a) The notice required in subdivisions (d)  
9 and (e) of Section 1793.23 shall be prepared by the  
10 manufacturer of the reacquired vehicle and shall disclose  
11 all of the following:

12 (1) Year, make, model, and vehicle identification  
13 number of the vehicle.

14 (2) Whether the title to the vehicle has been inscribed  
15 with the notation “lemon buy back.”

16 (3) The nature of each nonconformity reported by the  
17 original buyer or lessee of the vehicle.

18 (4) Repairs, if any, made to the vehicle in an attempt  
19 to correct each nonconformity reported by the original  
20 buyer or lessee.

21 (b) The notice shall be on a form 8<sup>1</sup>/<sub>2</sub> x 11 inches in size  
22 and printed in no smaller than 10-point black type on a  
23 white background.

24 The form shall only contain the following information  
25 prior to it being filled out by the manufacturer:

26  
27 WARRANTY BUYBACK NOTICE

28  
29 (Check one or both, as applicable)

30  
31  This vehicle was reacquired by the vehicle’s  
32 manufacturer in resolution of a warranty dispute  
33 between the original owner/lessee and the  
34 manufacturer.

35  The title to this vehicle has been permanently  
36 branded with the notation “lemon buyback.” The  
37 nonconformity experienced by the original owner or  
38 lessee has been corrected and the manufacturer warrants  
39 for a one-year period that this vehicle is free of that  
40 nonconformity.



1	<i>V.I.N.</i>	<i>Year</i>	<i>Make</i>	<i>Model</i>
2				

3		
4	<i>Problem(s) Reported by Original Owner</i>	<i>Repairs Made, if any, to Correct Reported Problem(s)</i>
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

16		
17	<i>Signature of Manufacturer</i>	<i>Date</i>
18	_____	_____
19	<i>Signature of Dealer(s)</i>	<i>Date</i>
20	_____	_____
21	_____	_____
22	_____	_____
23		
24	<i>Signature of Retail Buyer or Lessee</i>	<i>Date</i>
25	_____	_____
26	_____	_____
27		

28 (c) *The manufacturer shall provide an executed copy*  
 29 *of the notice to the manufacturer's transferee. Each*  
 30 *transferee to whom the motor vehicle is transferred prior*  
 31 *to its sale to a retail buyer or lessee shall be provided an*  
 32 *executed copy of the notice by the previous transferor.*

33 SEC. 3. Section 1793.25 of the Civil Code is amended  
 34 to read:

35 1793.25. (a) Notwithstanding Part 1 (commencing  
 36 with Section 6001) of Division 2 of the Revenue and  
 37 Taxation Code, the State Board of Equalization shall  
 38 reimburse the manufacturer of a new motor vehicle for  
 39 an amount equal to the sales tax which the manufacturer  
 40 pays to or for the buyer when providing a replacement



1 vehicle pursuant to subparagraph (A) of paragraph (2)  
2 of subdivision (d) of Section 1793.2 or includes in making  
3 restitution to the buyer pursuant to subparagraph (B) of  
4 paragraph (2) of subdivision (d) of Section 1793.2, when  
5 satisfactory proof is provided that the retailer of the  
6 motor vehicle for which the manufacturer is making  
7 restitution has reported and paid the sales tax on the gross  
8 receipts from the sale of that motor vehicle and the  
9 manufacturer provides satisfactory proof that it has  
10 ~~complied with the provisions of subdivision (b) of Section~~  
11 ~~44713.10 of the Vehicle Code~~ *complied with subdivision*  
12 *(c) of Section 1793.23.* The State Board of Equalization  
13 may adopt rules and regulations to carry out, facilitate  
14 compliance with, or prevent circumvention or evasion of,  
15 this section.

16 (b) Nothing in this section shall in any way change the  
17 application of the sales and use tax to the gross receipts  
18 and the sales price from the sale, and the storage, use, or  
19 other consumption, in this state or tangible personal  
20 property pursuant to Part 1 (commencing with Section  
21 6001) of Division 2 of the Revenue and Taxation Code.

22 (c) The manufacturer's claim for reimbursement and  
23 the board's approval or denial of the claim shall be subject  
24 to the provisions of Article 1 (commencing with Section  
25 6901) of Chapter 7 of Part 1 of Division 2 of the Revenue  
26 and Taxation Code, except Sections 6902.1, 6903, 6907, and  
27 6908 thereof, insofar as those provisions are not  
28 inconsistent with this section.

29 ~~SEC. 2.—~~

30 *SEC. 4.* Section 1795.8 of the Civil Code is repealed.

31 ~~SEC. 3.—~~

32 *SEC. 5.* Section 4453 of the Vehicle Code is amended  
33 to read:

34 4453. (a) The registration card shall contain upon its  
35 face, the date issued, the name and residence or business  
36 address of the owner and of the legal owner, if any, the  
37 registration number assigned to the vehicle, and a  
38 description of the vehicle as complete as that required in  
39 the application for registration of the vehicle.



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

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

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

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

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

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

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

24 (7) A motor vehicle that has been reacquired under  
25 circumstances described in subdivision ~~(b) of Section~~  
26 ~~11713.10~~ *(c) of Section 1793.23 of the Civil Code*, a vehicle  
27 with out-of-state titling documents reflecting a warranty  
28 return, or a vehicle that has been identified by an agency  
29 of another state as requiring a warranty return title  
30 notation, pursuant to the laws of that state. The notation  
31 made on the face of the registration and pursuant to this  
32 subdivision shall state "lemon buy back."

33 (c) The director may modify the form, arrangement,  
34 and information appearing on the face of the registration  
35 card and may provide for standardization and  
36 abbreviation of fictitious or firm names on the  
37 registration card whenever the director finds that the  
38 efficiency of the department will be promoted by so  
39 doing, except that general delivery or post office box



1 numbers shall not be permitted as the address of the  
2 registered owner unless there is no other address.

3 ~~SEC. 4. Section 11713.10 is added to the Vehicle Code,~~  
4 ~~to read:~~

5 ~~11713.10. (a) The Legislature finds and declares that~~  
6 ~~the expansion of state warranty laws covering new and~~  
7 ~~used cars has given important and valuable protection to~~  
8 ~~consumers; that in states without this valuable warranty~~  
9 ~~protection used and irreparable motor vehicles are~~  
10 ~~inundating the marketplace; that other states have~~  
11 ~~addressed this problem by requiring notices on the title~~  
12 ~~of these vehicles or other notice procedures to warn~~  
13 ~~consumers that the motor vehicles were repurchased by~~  
14 ~~a dealer or manufacturer because either the vehicle could~~  
15 ~~not be repaired in a reasonable length of time, a~~  
16 ~~reasonable number of repair attempts, or the dealer or~~  
17 ~~manufacturer was not willing to repair the vehicle; that~~  
18 ~~these notices serve the interests of consumers who have~~  
19 ~~a right to information relevant to their buying decisions;~~  
20 ~~and that the disappearance of these notices upon the~~  
21 ~~transfer of title from another state to this state encourages~~  
22 ~~the transport of “lemons” to this state for sale to the~~  
23 ~~drivers of this state. Therefore, the Legislature hereby~~  
24 ~~enacts the Automotive Consumer Notification Act.~~

25 ~~(b) Any manufacturer who reacquires or assists a~~  
26 ~~dealer to reacquire a vehicle registered in this state, any~~  
27 ~~other state, or a federally administered district shall, prior~~  
28 ~~to any resale, lease, or transfer of the vehicle in this state,~~  
29 ~~cause the vehicle to be retitled in the name of the~~  
30 ~~manufacturer, request the department to inscribe the~~  
31 ~~ownership certificate with the notation “lemon buy~~  
32 ~~back”, and affix a decal to the left doorframe of the~~  
33 ~~vehicle in accordance with the provisions of Section~~  
34 ~~11713.12, in any of the following circumstances:~~

35 ~~(1) The vehicle was reacquired, pursuant to a court~~  
36 ~~order or a decision rendered through a third-party~~  
37 ~~dispute resolution process.~~

38 ~~(2) The vehicle was reacquired within six months after~~  
39 ~~the buyer had made a written request to the~~



1 ~~manufacturer for replacement or refund under the~~  
2 ~~provisions of Section 1793.2 of the Civil Code.~~

3 ~~(3) The vehicle was reacquired during the pendency~~  
4 ~~of state-certified arbitration concerning the vehicle~~  
5 ~~requested by the buyer or within six months of the~~  
6 ~~conclusion of that arbitration proceeding.~~

7 ~~(4) The vehicle was reacquired during the pendency~~  
8 ~~of litigation between the manufacturer and the buyer~~  
9 ~~alleging a cause of action under Section 1793.2 of the Civil~~  
10 ~~Code or within six months of the conclusion of that~~  
11 ~~litigation.~~

12 ~~(e) Any manufacturer who reacquires or assists a~~  
13 ~~dealer to reacquire a vehicle to resolve an express~~  
14 ~~warranty dispute between the buyer or lessee and the~~  
15 ~~manufacturer shall, prior to sale, lease, or other transfer,~~  
16 ~~execute and deliver to the subsequent transferee a notice~~  
17 ~~and obtain the transferee's written acknowledgment of a~~  
18 ~~notice, as prescribed by Section 11713.11.~~

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

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

33 ~~(f) Any buyer damaged by the failure of a~~  
34 ~~manufacturer or dealer to comply with this section shall~~  
35 ~~have the same rights and remedies provided by Section~~  
36 ~~1794 of the Civil Code.~~

37 ~~SEC. 5. Section 11713.11 is added to the Vehicle Code,~~  
38 ~~to read:~~

39 ~~11713.11. (a) The notice required in subdivisions (c)~~  
40 ~~and (d) of Section 11713.10 shall be prepared by the~~



1 ~~manufacturer of the reacquired vehicle and shall disclose~~  
2 ~~the following:~~

3 ~~(1) Year, make, model, and vehicle identification~~  
4 ~~number of the vehicle.~~

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

7 ~~(3) The nature of each nonconformity reported by the~~  
8 ~~original buyer or lessee of the vehicle.~~

9 ~~(4) Repairs, if any, made to the vehicle in an attempt~~  
10 ~~to correct each nonconformity reported by the original~~  
11 ~~buyer or lessee.~~

12 ~~(b) The notice shall be on a form 8 1/2 x 11 inches in~~  
13 ~~size; printed in no smaller than 10 point black type on a~~  
14 ~~white background. The form shall only contain the~~  
15 ~~following information prior to it being filled out by the~~  
16 ~~manufacturer:~~

17  
18 **WARRANTY BUY-BACK NOTICE**

19  
20 ~~(Check one or both, as applicable)~~

21  
22  ~~This vehicle was reacquired by the vehicle's~~  
23 ~~manufacturer in resolution of a warranty dispute~~  
24 ~~between the original owner/lessee and the~~  
25 ~~manufacturer.~~

26  ~~The title to this vehicle has been permanently~~  
27 ~~branded with the notation "lemon buy back." The~~  
28 ~~nonconformity experienced by the original owner or~~  
29 ~~lessee has been corrected and the manufacturer warrants~~  
30 ~~for a one-year period that this vehicle is free of that~~  
31 ~~nonconformity.~~

VIN	Year	Make	Model
-----	------	------	-------



1	Problem(s) Reported by Original Owner	Repairs Made, if any, to Correct Reported Problem(s)
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

14	Signature of Manufacturer	_____ Date
15	_____	_____
16	Signature of Dealer	_____ Date
17	_____	_____
18	_____	_____
19	_____	_____
20	Signature of Buyer, Lessee, or other	
21	Transferee	_____ Date
22	_____	_____
23	_____	_____

24

25 ~~(c) A copy of the notice shall be provided to the buyer,~~

26 ~~lessee, or other transferee.~~

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

28 to read:

29 11713.12. (a) The decal required by subdivision ~~(b)~~

30 ~~of Section 11713.10 (c) of Section 1793.23 of the Civil Code~~

31 to be affixed by a manufacturer to the left doorframe of

32 a vehicle shall specify that title to the vehicle has been

33 inscribed with the notation “lemon buy back.” The decal

34 shall be issued to manufacturers by the department and

35 affixed to the vehicle in a manner prescribed by the

36 department.

37 (b) No person shall knowingly remove or alter any

38 decal affixed to a vehicle pursuant to subdivision (a),

39 whether or not licensed under this code.



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

4 SEC. 8. No reimbursement is required by this act  
5 pursuant to Section 6 of Article XIII B of the California  
6 Constitution because the only costs that may be incurred  
7 by a local agency or school district will be incurred  
8 because this act creates a new crime or infraction,  
9 eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section  
11 17556 of the Government Code, or changes the definition  
12 of a crime within the meaning of Section 6 of Article  
13 XIII B of the California Constitution.

14 Notwithstanding Section 17580 of the Government  
15 Code, unless otherwise specified, the provisions of this act  
16 shall become operative on the same date that the act  
17 takes effect pursuant to the California Constitution.

