

AMENDED IN SENATE JULY 3, 1995  
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**

---

---

**Introduced by Assembly Member Speier**

February 24, 1995

---

---

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 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 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 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 1793.23. (a) The Legislature finds and declares all of  
4 the following:  
5 (1) That the expansion of state warranty laws covering  
6 new and used cars has given important and valuable  
7 protection to consumers.  
8 (2) That, in states without this valuable warranty  
9 protection, used and irreparable motor vehicles are  
10 being resold in the marketplace without notice to the  
11 subsequent purchaser.  
12 (3) That other states have addressed this problem by  
13 requiring notices on the title of these vehicles or other  
14 notice procedures to warn consumers that the motor  
15 vehicles were repurchased by a dealer or manufacturer  
16 because the vehicle could not be repaired in a reasonable  
17 length of time or a reasonable number of repair attempts



1 or the dealer or manufacturer was not willing to repair  
2 the vehicle.

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

6 (5) That the disappearance of these notices upon the  
7 transfer of title from another state to this state encourages  
8 the transport of “lemons” to this state for sale to the  
9 drivers of this state.

10 (b) This section and Section 1793.24 shall be known,  
11 and may be cited as, the Automotive Consumer  
12 Notification Act.

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

27 ~~(1) The vehicle was reacquired after the buyer or~~  
28 ~~lessee made a written request to the manufacturer to~~  
29 ~~replace the vehicle or make a refund and the written~~  
30 ~~request was made after either (A) the vehicle was the~~  
31 ~~subject of four or more attempts by the manufacturer or~~  
32 ~~its agents to repair the same nonconformity within one~~  
33 ~~year from delivery of the new vehicle to the buyer or~~  
34 ~~lessee or 12,000 miles on the odometer of the vehicle,~~  
35 ~~whichever occurred first, or (B) the vehicle was out of~~  
36 ~~service by reason of repair of nonconformities by the~~  
37 ~~manufacturer or its agents for a cumulative total of more~~  
38 ~~than 30 calendar days since delivery of the vehicle to the~~  
39 ~~buyer or lessee and within one year from delivery of the~~



1 ~~new vehicle to the buyer or lessee or 12,000 miles on the~~  
2 ~~odometer of the vehicle, whichever occurred first.~~

3 ~~(2) The vehicle was reacquired during the pendency~~  
4 ~~of an arbitration proceeding between the manufacturer~~  
5 ~~and the buyer or lessee which alleged a cause of action~~  
6 ~~under subdivision (d) of Section 1793.2, or was reacquired~~  
7 ~~within six months of the dismissal or final adjudication of~~  
8 ~~that arbitration proceeding.~~

9 ~~(3) The vehicle was reacquired during the pendency~~  
10 ~~of a law suit between the manufacturer and the buyer~~  
11 ~~which alleged a cause of action under subdivision (d) of~~  
12 ~~Section 1793.2, or was reacquired within six months of the~~  
13 ~~dismissal or final adjudication of that law suit.~~

14 ~~(4) The vehicle was reacquired, pursuant to a court~~  
15 ~~order or a decision rendered through a third party~~  
16 ~~dispute resolution process.~~

17 *(c) Any manufacturer who reacquires or assists a*  
18 *dealer or lienholder to reacquire a motor vehicle*  
19 *registered in this state, any other state, or a federally*  
20 *administered district because the vehicle was required to*  
21 *be replaced or accepted for restitution due to the*  
22 *manufacturer's inability to conform the vehicle to*  
23 *applicable warranties pursuant to subdivision (d) of*  
24 *Section 1793.2 or any other applicable law of this state, any*  
25 *other state, or federal law, shall, prior to any sale, lease,*  
26 *or transfer of the vehicle in this state, or prior to exporting*  
27 *the vehicle to another state for sale, lease, or transfer if the*  
28 *vehicle was registered in this state and reacquired*  
29 *pursuant to the provisions of subdivision (d) of Section*  
30 *1793.2, cause the vehicle to be retitled in the name of the*  
31 *manufacturer, request the Department of Motor*  
32 *Vehicles to inscribe the ownership certificate with the*  
33 *notation "factory buyback," and affix a decal to the*  
34 *vehicle in accordance with Section 11713.12 of the*  
35 *Vehicle Code.*

36 *(d) Any manufacturer who reacquires or assists a*  
37 *dealer or lienholder to reacquire a motor vehicle in order*  
38 *to resolve an express warranty dispute between the buyer*  
39 *or lessee and the manufacturer shall, prior to sale, lease,*  
40 *or other transfer of the vehicle, execute and deliver to the*



1 subsequent transferee a notice and obtain the transferee's  
2 written acknowledgment of a notice, as prescribed by  
3 Section 1793.24.

4 ~~(e) Any dealer who knowingly purchases for resale a~~  
5 ~~vehicle that has been reacquired in order to resolve an~~

6 *(e) Any dealer who purchases for resale a motor*  
7 *vehicle and has been given notice pursuant to subdivision*  
8 *(c) of Section 1793.24 that the vehicle was reacquired in*

9 *order to resolve an express warranty dispute between the*  
10 *last retail owner of the reacquired vehicle and the*  
11 *vehicle's manufacturer shall, prior to sale, lease, or other*  
12 *transfer, execute and deliver to the subsequent*  
13 *transferee a notice and obtain the transferee's written*  
14 *acknowledgment of a notice, as prescribed by Section*  
15 *1793.24.*

16 (f) The disclosure requirements in subdivisions (d)  
17 and (e) are in addition to all other consumer notice  
18 requirements and do not relieve any person, including  
19 any dealer or manufacturer, from complying with any  
20 other applicable law, including any requirement of  
21 subdivision (f) of Section 1793.22.

22 (g) For purposes of this section, "dealer" has the same  
23 meaning as defined in Section 285 of the Vehicle Code.

24 SEC. 2. Section 1793.24 is added to the Civil Code, to  
25 read:

26 1793.24. (a) The notice required in subdivisions (d)  
27 and (e) of Section 1793.23 shall be prepared by the  
28 manufacturer of the reacquired vehicle and shall disclose  
29 all of the following:

30 (1) Year, make, model, and vehicle identification  
31 number of the vehicle.

32 (2) Whether the title to the vehicle has been inscribed  
33 with the notation "~~lemon buy back.~~" "*factory buyback.*"

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

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



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

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

6  
7 WARRANTY BUYBACK NOTICE

8  
9 (Check one or both, as applicable)

10  This vehicle was reacquired by the vehicle's  
11 manufacturer in resolution of a warranty dispute  
12 between the original owner/lessee and the  
13 manufacturer.  
14 manufacturer.

15  The title to this vehicle has been permanently  
16 branded with the notation "~~lemon~~ "factory buyback."  
17 The nonconformity experienced by the original owner or  
18 lessee has been corrected and the manufacturer warrants  
19 for a one-year period that this vehicle is free of that  
20 nonconformity.

V.I.N.	Year	Make	Model
--------	------	------	-------

Problem(s) Reported by Original Owner	Repairs Made, if any, to Correct Reported Problem(s)
--	---

37  
38 Signature of Manufacturer \_\_\_\_\_ Date \_\_\_\_\_  
39  
40 Signature of Dealer(s) \_\_\_\_\_ Date \_\_\_\_\_



1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_  
 4  
 5 Signature of Retail Buyer or Lessee Date  
 6 \_\_\_\_\_  
 7 \_\_\_\_\_

8  
 9 (c) The manufacturer shall provide an executed copy  
 10 of the notice to the manufacturer’s transferee. Each  
 11 transferee to whom the motor vehicle is transferred prior  
 12 to its sale to a retail buyer or lessee shall be provided an  
 13 executed copy of the notice by the previous transferor.

14 SEC. 3. Section 1793.25 of the Civil Code is amended  
 15 to read:

16 1793.25. (a) Notwithstanding Part 1 (commencing  
 17 with Section 6001) of Division 2 of the Revenue and  
 18 Taxation Code, the State Board of Equalization shall  
 19 reimburse the manufacturer of a new motor vehicle for  
 20 an amount equal to the sales tax which the manufacturer  
 21 pays to or for the buyer when providing a replacement  
 22 vehicle pursuant to subparagraph (A) of paragraph (2)  
 23 of subdivision (d) of Section 1793.2 or includes in making  
 24 restitution to the buyer pursuant to subparagraph (B) of  
 25 paragraph (2) of subdivision (d) of Section 1793.2, when  
 26 satisfactory proof is provided that the retailer of the  
 27 motor vehicle for which the manufacturer is making  
 28 restitution has reported and paid the sales tax on the gross  
 29 receipts from the sale of that motor vehicle and the  
 30 manufacturer provides satisfactory proof that it has  
 31 complied with subdivision (c) of Section 1793.23. The  
 32 State Board of Equalization may adopt rules and  
 33 regulations to carry out, facilitate compliance with, or  
 34 prevent circumvention or evasion of, this section.

35 (b) Nothing in this section shall in any way change the  
 36 application of the sales and use tax to the gross receipts  
 37 and the sales price from the sale, and the storage, use, or  
 38 other consumption, in this state or tangible personal  
 39 property pursuant to Part 1 (commencing with Section  
 40 6001) of Division 2 of the Revenue and Taxation Code.



1 (c) The manufacturer's claim for reimbursement and  
2 the board's approval or denial of the claim shall be subject  
3 to the provisions of Article 1 (commencing with Section  
4 6901) of Chapter 7 of Part 1 of Division 2 of the Revenue  
5 and Taxation Code, except Sections 6902.1, 6903, 6907, and  
6 6908 thereof, insofar as those provisions are not  
7 inconsistent with this section.

8 SEC. 4. Section 1795.8 of the Civil Code is repealed.

9 SEC. 5. Section 4453 of the Vehicle Code is amended  
10 to read:

11 4453. (a) The registration card shall contain upon its  
12 face, the date issued, the name and residence or business  
13 address of the owner and of the legal owner, if any, the  
14 registration number assigned to the vehicle, and a  
15 description of the vehicle as complete as that required in  
16 the application for registration of the vehicle.

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

22 (1) A motor vehicle rebuilt and restored to operation  
23 which was previously declared to be a total loss salvage  
24 vehicle because the cost of repairs exceeds the retail value  
25 of the vehicle.

26 (2) A motor vehicle rebuilt and restored to operation  
27 which was previously reported to be dismantled pursuant  
28 to Section 11520.

29 (3) A motor vehicle previously registered to a law  
30 enforcement agency and operated in law enforcement  
31 work.

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

33 (5) A motor vehicle manufactured outside of the  
34 United States and not intended by the manufacturer for  
35 sale in the United States.

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



1 (7) A motor vehicle that has been reacquired under  
2 circumstances described in subdivision (c) of Section  
3 1793.23 of the Civil Code, a vehicle with out-of-state  
4 titling documents reflecting a warranty return, or a  
5 vehicle that has been identified by an agency of another  
6 state as requiring a warranty return title notation,  
7 pursuant to the laws of that state. The notation made on  
8 the face of the registration and pursuant to this  
9 subdivision shall state—“lemon buy back.” “*factory*  
10 *buyback.*”

11 (c) The director may modify the form, arrangement,  
12 and information appearing on the face of the registration  
13 card and may provide for standardization and  
14 abbreviation of fictitious or firm names on the  
15 registration card whenever the director finds that the  
16 efficiency of the department will be promoted by so  
17 doing, except that general delivery or post office box  
18 numbers shall not be permitted as the address of the  
19 registered owner unless there is no other address.

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

22 11713.12. (a) The decal required by subdivision (c)  
23 of Section 1793.23 of the Civil Code ~~to be affixed by a~~  
24 ~~manufacturer to the left doorframe of a vehicle shall~~  
25 ~~specify that title to the vehicle has been inscribed with~~  
26 ~~the notation “lemon buy back.” The decal shall be issued~~  
27 ~~to manufacturers by the department and to be affixed by~~  
28 ~~a manufacturer to a motor vehicle, shall be affixed to the~~  
29 ~~left front doorframe of the vehicle, or, if the vehicle does~~  
30 ~~not have a left front doorframe, it shall be affixed in a~~  
31 ~~location designated by the department. The decal shall~~  
32 ~~specify that title to the motor vehicle has been inscribed~~  
33 ~~with the notation “factory buyback” and shall be affixed~~  
34 to the vehicle in a manner prescribed by the department.

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

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



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

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

15 \_\_\_\_\_

16 CORRECTIONS

17 Text — Page 9.

18 \_\_\_\_\_

19

