

AMENDED IN SENATE JULY 15, 1995  
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

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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 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 *as prescribed*, 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~~ *January 1, 1996*. 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 motor vehicle  
15 registered in this state, any other state, or a federally  
16 ~~administered district because the vehicle was required to~~  
17 ~~be replaced or accepted for restitution due to the~~  
18 ~~manufacturer's inability to conform the vehicle to~~  
19 ~~applicable warranties pursuant to subdivision (d) of~~  
20 ~~Section 1793.2 or any other applicable law of this state, any~~  
21 ~~other state, or federal law, shall, prior to any sale, lease,~~  
22 *administered district shall, prior to any sale, lease, or*  
23 transfer of the vehicle in this state, or prior to exporting  
24 the vehicle to another state for sale, lease, or transfer if the  
25 vehicle was registered in this state and reacquired  
26 pursuant to the provisions of subdivision (d) of Section  
27 1793.2, cause the vehicle to be retitled in the name of the  
28 manufacturer, request the Department of Motor  
29 Vehicles to inscribe the ownership certificate with the  
30 notation “factory buyback,” and affix a decal to the  
31 vehicle in accordance with Section 11713.12 of the  
32 Vehicle Code *if the manufacturer knew or should have*  
33 *known that the vehicle is required by law to be replaced,*  
34 *accepted for restitution due to the failure of the*  
35 *manufacturer to conform the vehicle to applicable*  
36 *warranties pursuant to subdivision (d) of Section 1793.2,*  
37 *or accepted for restitution by the manufacturer due to*  
38 *the failure of the manufacturer to conform the vehicle to*  
39 *warranties required by any other applicable law of the*  
40 *state, any other state, or federal law.*



1 (d) Any manufacturer who reacquires or assists a  
 2 dealer or lienholder to reacquire a motor vehicle ~~in order~~  
 3 ~~to resolve an express warranty dispute between the buyer~~  
 4 ~~or lessee and the manufacturer shall, prior to sale, lease,~~  
 5 *in response to a request by the buyer or lessee that the*  
 6 *vehicle be either replaced or accepted for restitution*  
 7 *because the vehicle did not conform to express warranties*  
 8 *shall, prior to the sale, lease, or other transfer of the*  
 9 vehicle, execute and deliver to the subsequent transferee  
 10 a notice and obtain the transferee's written  
 11 acknowledgment of a notice, as prescribed by Section  
 12 1793.24.

13 ~~(e) Any dealer who purchases for resale a motor~~  
 14 ~~vehicle and has been given notice pursuant to subdivision~~  
 15 ~~(e) of Section 1793.24 that the vehicle was reacquired in~~  
 16 ~~order to resolve an express warranty dispute between the~~  
 17 ~~last retail owner of the reacquired vehicle and the~~  
 18 ~~vehicle's manufacturer shall, prior to sale, lease, or other~~

19 *(e) Any person, including any dealer, who acquires a*  
 20 *motor vehicle for resale and knows or should have known*  
 21 *that the vehicle was reacquired by the vehicle's*  
 22 *manufacturer in response to a request by the last retail*  
 23 *owner or lessee of the vehicle that it be replaced or*  
 24 *accepted for restitution because the vehicle did not*  
 25 *conform to express warranties shall, prior to the sale,*  
 26 *lease, or other transfer, 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 *(f) Any person, including any manufacturer or dealer,*  
 31 *who sells, leases, or transfers ownership of a motor vehicle*  
 32 *when the vehicle's ownership certificate is inscribed with*  
 33 *the notation "factory buyback" shall, prior to the sale,*  
 34 *lease, or ownership transfer of the vehicle, provide the*  
 35 *transferee with a disclosure statement signed by the*  
 36 *transferee that states: "THIS VEHICLE WAS*  
 37 *REPURCHASED BY THE VEHICLE'S*  
 38 *MANUFACTURER DUE TO A DEFECT IN THE*  
 39 *VEHICLE PURSUANT TO CONSUMER WARRANTY*  
 40 *LAWS. THE TITLE TO THIS VEHICLE HAS BEEN*



1 *PERMANENTLY BRANDED WITH THE NOTATION*  
2 *'FACTORY BUYBACK.'*”

3 (g) The disclosure requirements in subdivisions (d)  
4 ~~and (e) are in addition to, (e), and (f) are cumulative~~  
5 *with* all other consumer notice requirements and do not  
6 relieve any person, including any dealer or manufacturer,  
7 from complying with any other applicable law, including  
8 any requirement of subdivision (f) of Section 1793.22.

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

11 (h) *For purposes of this section, “dealer” means any*  
12 *person engaged in the business of selling, offering for sale,*  
13 *or negotiating the retail sale of, a used motor vehicle or*  
14 *selling motor vehicles as a broker or agent for another,*  
15 *including the officers, agents, and employees of the*  
16 *person and any combination or association of dealers.*

17 SEC. 2. Section 1793.24 is added to the Civil Code, to  
18 read:

19 1793.24. (a) The notice required in subdivisions (d)  
20 and (e) of Section 1793.23 shall be prepared by the  
21 manufacturer of the reacquired vehicle and shall disclose  
22 all of the following:

23 (1) Year, make, model, and vehicle identification  
24 number of the vehicle.

25 (2) Whether the title to the vehicle has been inscribed  
26 with the notation “factory buyback.”

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

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

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

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

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WARRANTY BUYBACK NOTICE

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(Check one or both, as applicable)

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

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

(Check One)

This vehicle was repurchased by the vehicle's manufacturer after the last retail owner or lessee requested its repurchase due to the problems(s) listed below.

THIS VEHICLE WAS REPURCHASED BY THE VEHICLE'S MANUFACTURER DUE TO A DEFECT IN THE VEHICLE PURSUANT TO CONSUMER WARRANTY LAWS. THE TITLE TO THIS VEHICLE HAS BEEN PERMANENTLY BRANDED WITH THE NOTATION "FACTORY BUYBACK." Under California law, the manufacturer must warrant to you, for a one year period, that the vehicle is free of the problem(s) listed below.

V.I.N.	Year	Make	Model
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1 restitution to the buyer pursuant to subparagraph (B) of  
2 paragraph (2) of subdivision (d) of Section 1793.2, when  
3 satisfactory proof is provided that the retailer of the  
4 motor vehicle for which the manufacturer is making  
5 restitution has reported and paid the sales tax on the gross  
6 receipts from the sale of that motor vehicle and the  
7 manufacturer provides satisfactory proof that it has  
8 complied with subdivision (c) of Section 1793.23. The  
9 State Board of Equalization may adopt rules and  
10 regulations to carry out, facilitate compliance with, or  
11 prevent circumvention or evasion of, this section.

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

18 (c) The manufacturer's claim for reimbursement and  
19 the board's approval or denial of the claim shall be subject  
20 to the provisions of Article 1 (commencing with Section  
21 6901) of Chapter 7 of Part 1 of Division 2 of the Revenue  
22 and Taxation Code, except Sections 6902.1, 6903, 6907, and  
23 6908 thereof, insofar as those provisions are not  
24 inconsistent with this section.

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

26 SEC. 5. Section 4453 of the Vehicle Code is amended  
27 to read:

28 4453. (a) The registration card shall contain upon its  
29 face, the date issued, the name and residence or business  
30 address of the owner and of the legal owner, if any, the  
31 registration number assigned to the vehicle, and a  
32 description of the vehicle as complete as that required in  
33 the application for registration of the vehicle.

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

39 (1) A motor vehicle rebuilt and restored to operation  
40 which was previously declared to be a total loss salvage



1 vehicle because the cost of repairs exceeds the retail value  
2 of the vehicle.

3 (2) A motor vehicle rebuilt and restored to operation  
4 which was previously reported to be dismantled pursuant  
5 to Section 11520.

6 (3) A motor vehicle previously registered to a law  
7 enforcement agency and operated in law enforcement  
8 work.

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

10 (5) A motor vehicle manufactured outside of the  
11 United States and not intended by the manufacturer for  
12 sale in the United States.

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

17 (7) A motor vehicle that has been reacquired under  
18 circumstances described in subdivision (c) of Section  
19 1793.23 of the Civil Code, a vehicle with out-of-state  
20 titling documents reflecting a warranty return, or a  
21 vehicle that has been identified by an agency of another  
22 state as requiring a warranty return title notation,  
23 pursuant to the laws of that state. The notation made on  
24 the face of the registration and pursuant to this  
25 subdivision shall state "factory buyback."

26 (c) The director may modify the form, arrangement,  
27 and information appearing on the face of the registration  
28 card and may provide for standardization and  
29 abbreviation of fictitious or firm names on the  
30 registration card whenever the director finds that the  
31 efficiency of the department will be promoted by so  
32 doing, except that general delivery or post office box  
33 numbers shall not be permitted as the address of the  
34 registered owner unless there is no other address.

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

37 11713.12. (a) The decal required by subdivision (c)  
38 of Section 1793.23 of the Civil Code to be affixed by a  
39 manufacturer to a motor vehicle, shall be affixed to the  
40 left front doorframe of the vehicle, or, if the vehicle does



1 not have a left front doorframe, it shall be affixed in a  
2 location designated by the department. The decal shall  
3 specify that title to the motor vehicle has been inscribed  
4 with the notation "factory buyback" and shall be affixed  
5 to the vehicle in a manner prescribed by the department.

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

9 SEC. 7. This act shall apply only to vehicles  
10 reacquired by a manufacturer on or after ~~the effective~~  
11 ~~date of this act.~~ *January 1, 1996, and shall not affect any*  
12 *proceeding relating to vehicles reacquired prior to*  
13 *January 1, 1996.*

14 SEC. 8. No reimbursement is required by this act  
15 pursuant to Section 6 of Article XIII B of the California  
16 Constitution because the only costs that may be incurred  
17 by a local agency or school district will be incurred  
18 because this act creates a new crime or infraction,  
19 eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section  
21 17556 of the Government Code, or changes the definition  
22 of a crime within the meaning of Section 6 of Article  
23 XIII B of the California Constitution.

24 Notwithstanding Section 17580 of the Government  
25 Code, unless otherwise specified, the provisions of this act  
26 shall become operative on the same date that the act  
27 takes effect pursuant to the California Constitution.

