

AMENDED IN SENATE JULY 23, 1995
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

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 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



1 vehicles were repurchased by a dealer or manufacturer
2 because the vehicle could not be repaired in a reasonable
3 length of time or a reasonable number of repair attempts
4 or the dealer or manufacturer was not willing to repair
5 the vehicle.

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

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

13 (b) This section and Section 1793.24 shall be known,
14 and may be cited as, the Automotive Consumer
15 Notification Act.

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

38 (d) Any manufacturer who reacquires or assists a
39 dealer or lienholder to reacquire a motor vehicle in
40 response to a request by the buyer or lessee that the



1 vehicle be either replaced or accepted for restitution
 2 because the vehicle did not conform to express warranties
 3 shall, prior to the sale, lease, or other transfer of the
 4 vehicle, execute and deliver to the subsequent transferee
 5 a notice and obtain the transferee’s written
 6 acknowledgment of a notice, as prescribed by Section
 7 1793.24.

8 (e) Any person, including any dealer, who acquires a
 9 motor vehicle for resale and knows or should have known
 10 that the vehicle was reacquired by the vehicle’s
 11 manufacturer in response to a request by the last retail
 12 owner or lessee of the vehicle that it be replaced or
 13 accepted for restitution because the vehicle did not
 14 conform to express warranties shall, prior to the sale,
 15 lease, or other transfer, execute and deliver to the
 16 subsequent transferee a notice and obtain the transferee’s
 17 written acknowledgment of a notice, as prescribed by
 18 Section 1793.24.

19 (f) Any person, including any manufacturer or dealer,
 20 who sells, leases, or transfers ownership of a motor vehicle
 21 when the vehicle’s ownership certificate is inscribed with
 22 the notation ~~“factory buyback”~~ *“Lemon Law Buyback”*
 23 shall, prior to the sale, lease, or ownership transfer of the
 24 vehicle, provide the transferee with a disclosure
 25 statement signed by the transferee that states:

26
 27 “THIS VEHICLE WAS REPURCHASED BY THE
 28 VEHICLE’S MANUFACTURER DUE TO A DEFECT
 29 IN THE VEHICLE PURSUANT TO CONSUMER
 30 WARRANTY LAWS. THE TITLE TO THIS VEHICLE
 31 HAS BEEN PERMANENTLY BRANDED WITH THE
 32 NOTATION ~~‘FACTORY BUYBACK.’~~ *‘LEMON LAW*
 33 *BUYBACK.’*”

34
 35 (g) The disclosure requirements in subdivisions (d),
 36 (e), and (f) are cumulative with all other consumer
 37 notice requirements and do not relieve any person,
 38 including any dealer or manufacturer, from complying
 39 with any other applicable law, including any requirement
 40 of subdivision (f) of Section 1793.22.



1 (h) For purposes of this section, “dealer” means any
2 person engaged in the business of selling, offering for sale,
3 or negotiating the retail sale of, a used motor vehicle or
4 selling motor vehicles as a broker or agent for another,
5 including the officers, agents, and employees of the
6 person and any combination or association of dealers.

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

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

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

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

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

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

22 (b) The notice shall be on a form 8¹/₂ x 11 inches in size
23 and printed in no smaller than 10-point black type on a
24 white background.

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

27
28 WARRANTY BUYBACK NOTICE

29
30 (Check One)

31 This vehicle was repurchased by the vehicle’s
32 manufacturer after the last retail owner or lessee
33 requested its repurchase due to the—~~problems(s)~~
34 *problem(s)* listed below.

35 THIS VEHICLE WAS REPURCHASED BY THE
36 ~~VEHICLES’S~~ ITS MANUFACTURER DUE TO A
37 DEFECT IN THE VEHICLE PURSUANT TO
38 CONSUMER WARRANTY LAWS. THE TITLE TO
39 THIS VEHICLE HAS BEEN PERMANENTLY
40 BRANDED WITH THE NOTATION “~~FACTORY~~



1 ~~BUYBACK.~~ “LEMON LAW BUYBACK.” Under
 2 California law, the manufacturer must warrant to you, for
 3 a one year period, that the vehicle is free of the
 4 problem(s) listed below.

5
6
7
8

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

9
10
11
12
13
14
15
16
17
18
19
20

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

21
22
23
24
25
26
27
28
29
30
31
32

Signature of Manufacturer	Date
_____	_____
Signature of Dealer(s)	Date
_____	_____
_____	_____
Signature of Retail Buyer or Lessee	Date
_____	_____
_____	_____

33 (c) The manufacturer shall provide an executed copy
 34 of the notice to the manufacturer’s transferee. Each
 35 transferee, including a dealer, to whom the motor vehicle
 36 is transferred prior to its sale to a retail buyer or lessee
 37 shall be provided an executed copy of the notice by the
 38 previous transferor.

39 SEC. 3. Section 1793.25 of the Civil Code is amended
 40 to read:



1 1793.25. (a) Notwithstanding Part 1 (commencing
2 with Section 6001) of Division 2 of the Revenue and
3 Taxation Code, the State Board of Equalization shall
4 reimburse the manufacturer of a new motor vehicle for
5 an amount equal to the sales tax which the manufacturer
6 pays to or for the buyer when providing a replacement
7 vehicle pursuant to subparagraph (A) of paragraph (2)
8 of subdivision (d) of Section 1793.2 or includes in making
9 restitution to the buyer pursuant to subparagraph (B) of
10 paragraph (2) of subdivision (d) of Section 1793.2, when
11 satisfactory proof is provided that the retailer of the
12 motor vehicle for which the manufacturer is making
13 restitution has reported and paid the sales tax on the gross
14 receipts from the sale of that motor vehicle and the
15 manufacturer provides satisfactory proof that it has
16 complied with subdivision (c) of Section 1793.23. The
17 State Board of Equalization may adopt rules and
18 regulations to carry out, facilitate compliance with, or
19 prevent circumvention or evasion of, this section.

20 (b) Nothing in this section shall in any way change the
21 application of the sales and use tax to the gross receipts
22 and the sales price from the sale, and the storage, use, or
23 other consumption, in this state or tangible personal
24 property pursuant to Part 1 (commencing with Section
25 6001) of Division 2 of the Revenue and Taxation Code.

26 (c) The manufacturer's claim for reimbursement and
27 the board's approval or denial of the claim shall be subject
28 to the provisions of Article 1 (commencing with Section
29 6901) of Chapter 7 of Part 1 of Division 2 of the Revenue
30 and Taxation Code, except Sections 6902.1, 6903, 6907, and
31 6908 thereof, insofar as those provisions are not
32 inconsistent with this section.

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

34 SEC. 5. 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 that has been reacquired under
27 circumstances described in subdivision (c) of Section
28 1793.23 of the Civil Code, a vehicle with out-of-state
29 titling documents reflecting a warranty return, or a
30 vehicle that has been identified by an agency of another
31 state as requiring a warranty return title notation,
32 pursuant to the laws of that state. The notation made on
33 the face of the registration and pursuant to this
34 subdivision shall state—“~~factory buyback.~~” “*Lemon Law*
35 *Buyback.*”

36 (c) The director may modify the form, arrangement,
37 and information appearing on the face of the registration
38 card and may provide for standardization and
39 abbreviation of fictitious or firm names on the
40 registration card whenever the director finds that the



1 efficiency of the department will be promoted by so
2 doing, except that general delivery or post office box
3 numbers shall not be permitted as the address of the
4 registered owner unless there is no other address.

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

7 11713.12. (a) The decal required by subdivision (c)
8 of Section 1793.23 of the Civil Code to be affixed by a
9 manufacturer to a motor vehicle, shall be affixed to the
10 left front doorframe of the vehicle, or, if the vehicle does
11 not have a left front doorframe, it shall be affixed in a
12 location designated by the department. The decal shall
13 specify that title to the motor vehicle has been inscribed
14 with the notation ~~“factory—buyback”~~ *“Lemon Law*
15 *Buyback”* and shall be affixed to the vehicle in a manner
16 prescribed by the department.

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

20 SEC. 7. This act shall apply only to vehicles
21 reacquired by a manufacturer on or after January 1, 1996,
22 and shall not affect any proceeding relating to vehicles
23 reacquired prior to January 1, 1996.

24 SEC. 8. No reimbursement is required by this act
25 pursuant to Section 6 of Article XIII B of the California
26 Constitution because the only costs that may be incurred
27 by a local agency or school district will be incurred
28 because this act creates a new crime or infraction,
29 eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section
31 17556 of the Government Code, or changes the definition
32 of a crime within the meaning of Section 6 of Article
33 XIII B of the California Constitution.

34 Notwithstanding Section 17580 of the Government
35 Code, unless otherwise specified, the provisions of this act
36 shall become operative on the same date that the act
37 takes effect pursuant to the California Constitution.

O

