

Assembly Bill No. 2397

Passed the Assembly August 25, 2002

Chief Clerk of the Assembly

Passed the Senate August 22, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 11614, 11713, and 11713.1 of, and to add Sections 11614.1 and 11713.16 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2397, Correa. Vehicles.

Existing law provides that it is unlawful for a lessor-retailer to sell a vehicle without a lessor-retailer license or temporary permit. Existing law prohibits lessor-retailers from engaging in certain practices, as specified.

This bill would add various other acts, the commission of which, by a licensed lessor-retailer, would be a crime.

Existing law provides that no person shall act as a motor vehicle dealer without having first been issued a license or temporary permit by the Department of Motor Vehicles. Existing law provides that no holder of this license shall disseminate or make any statement which is untrue or misleading that he or she knows or reasonably should know is untrue, or make any statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated. Existing law provides that a licensee shall not advertise a vehicle for sale without identifying it, nor shall he or she exclude that certain fees will be added to the advertised price, as specified.

This bill would provide that vehicle identification must include the model, and model-year, as specified. With respect to the requirement to include information about additional fees, this bill would remove handbills from the definition of advertisement. This bill would restrict the use of the terms “no downpayment” and “zero downpayment” as specified. This bill would also prohibit the use of a picture in connection with an advertisement of the price of a specific vehicle or class of vehicles that depicts a vehicle with optional equipment or a design not offered at the advertised price.

This bill would also add various other acts, the commission of which, by a holder of a dealer’s license, would be a crime.

This bill would state the intent of the Legislature that on and after the operative date of these provisions, various sections of the



California Code of Regulations shall have no force and effect, as specified.

By creating new crimes and expanding the scope of various existing crimes, 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.

The people of the State of California do enact as follows:

SECTION 1. Section 11614 of the Vehicle Code is amended to read:

11614. No lessor-retailer licensed under this chapter may do any of the following in connection with any activity for which this license is required:

(a) Make or disseminate, or cause to be made or disseminated, before the public in this state, in any newspaper or other publication, or any advertising device, or by oral representation, or in any other manner or means whatever, any statement that is untrue or misleading and that is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or make or disseminate, or cause to be made or disseminated, any statement as part of a plan or scheme with the intent not to sell any vehicle, or service so advertised, at the price stated therein, or as so advertised.

(b) Advertise, or offer for sale in any manner, any vehicle not actually for sale at the premises of the lessor-retailer or available within a reasonable time to the lessor-retailer at the time of the advertisement or offer.

(c) Fail within 48 hours to give, in writing, notification to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) Advertise any specific vehicle for sale without identifying the vehicle by its model, model year, and either its license number or that portion of the vehicle identification number that distinguishes the vehicle from all other vehicles of the same make,



model, and model-year. Model-year is not required to be advertised for current model-year vehicles. Year models are no longer current when ensuing year models are available for purchase at retail in California.

(e) Advertise the total price of a vehicle without including all costs to the purchaser at the time of delivery at the lessor-retailer's premises, except sales tax, vehicle registration fees, finance charges, certificate of compliance or noncompliance fees not exceeding thirty-five dollars (\$35) pursuant to any statute, and any dealer documentary preparation charge. The dealer documentary charge shall not exceed thirty-five dollars (\$35).

(f) (1) Fail to disclose, in an advertisement of a vehicle for sale, that there will be added to the advertised total price, at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, or any dealer documentary preparation charge.

(2) For purposes of paragraph (1), "advertisement" means any advertisement in a newspaper, magazine, direct mail publication, or handbill that is two or more columns in width or one column in width and more than seven inches in length, or on any Web page of a lessor-retailer's Web site that displays the price of a vehicle offered for sale on the Internet, as that term is defined in paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions Code.

(g) Advertise or otherwise represent, or knowingly allow to be advertised or represented on the lessor-retailer's behalf or at the lessor-retailer's place of business, that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle. The terms "no downpayment," "zero down delivers," or similar terms shall not be advertised unless the vehicle will be sold to any qualified purchaser without a prior payment of any kind or trade-in.

(h) Refuse to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, finance charges, certificate of compliance or noncompliance pursuant to any statute, and any dealer documentary preparation charge,



which charges shall not exceed thirty-five dollars (\$35) for the documentary preparation charge and thirty-five dollars (\$35) for the certificate of compliance or noncompliance pursuant to any statute, while the vehicle remains unsold or unleased, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.

(i) Engage in the business for which the licensee is licensed without having in force and effect a bond required by Section 11612.

(j) Engage in the business for which the lessor-retailer is licensed without at all times maintaining a principal place of business and any branch office location required by this chapter.

(k) Permit the use of the lessor-retailer license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of vehicles required to be registered under this code, or to permit the use of the lessor-retailer license, supplies, or books to operate a branch office location to be used by any other person, if, in either situation, the licensee has no financial or equitable interest or investment in the vehicles sold by, or the business of, or branch office location used by, the person, or has no interest or investment other than commissions, compensations, fees, or any other thing of value received for the use of the lessor-retailer license, supplies, or books to engage in the sale of vehicles.

(l) Violate any provision of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

(m) Represent the dealer documentary preparation charge, or certificate of compliance or noncompliance fee, as a governmental fee.

(n) Advertise free merchandise, gifts, or services provided by a lessor-retailer contingent on the purchase of a vehicle. “Free” includes merchandise or services offered for sale at a price less than the lessor-retailer’s cost of the merchandise or services.

(o) Advertise vehicles and related goods or services with the intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(p) Use the term “rebate” or similar words such as “cash back” in advertising the sale of a vehicle.

(q) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than



the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, “cash price” has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(r) Misrepresent the authority of a representative or agent to negotiate the final terms of a transaction.

(s) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(t) Make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is “fully factory equipped.”

(u) Advertise any underselling claim, such as “we have the lowest prices” or “we will beat any dealer’s price,” unless the lessor-retailer has conducted a recent survey showing that the lessor-retailer sells its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claim. The substantiating records shall be made available to the department upon request.

(v) To display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission’s Buyer’s Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

(w) This section shall become operative on July 1, 2001.

SEC. 2. Section 11614.1 is added to the Vehicle Code, to read:

11614.1. No lessor-retailer licensed under this chapter may do any of the following in connection with any activity for which this license is required:

(a) Use a picture in connection with any advertisement of the price of a specific vehicle or class of vehicles, unless the picture is of the year, make and model being offered for sale. The picture shall not depict a vehicle with optional equipment or a design not actually offered at the advertised price.

(b) Advertise a vehicle for sale that was used by the selling lessor-retailer in its business as a demonstrator, executive vehicle, service vehicle, rental, loaner, or lease vehicle, unless the advertisement clearly and conspicuously discloses the previous



use made by that licensee of the vehicle. An advertisement shall not describe any of those vehicles as “new.”

(c) Advertise any used vehicle of the current or prior model-year without expressly disclosing the vehicle as “used,” “previously owned,” or a similar term that indicates that the vehicle is used, as defined in this code.

(d) Use the terms “on approved credit” or “on credit approval” in an advertisement for the sale of a vehicle unless those terms are clearly and conspicuously disclosed and unabbreviated.

(e) Advertise an amount described by terms such as “unpaid balance” or “balance can be financed” unless the total sale price is clearly and conspicuously disclosed and is in close proximity to the advertised balance.

(f) Advertise credit terms that fail to comply with the disclosure requirements of Section 226.24 of Title 12 of the Code of Federal Regulations. Advertisements of terms that include escalated payments, balloon payments, or deferred downpayments shall clearly and conspicuously identify those payments as to amounts and time due.

(g) Advertise claims such as “everyone financed,” “no credit rejected,” or similar claims unless the dealer is willing to extend credit to any person under any and all circumstances.

(h) Advertise the amount of any downpayment unless it represents the total payment required of a purchaser prior to delivery of the vehicle, including any payment for sales tax or license. A statement such as “\$_____ deliver,” is an example of an advertised downpayment.

(i) Fail to clearly and conspicuously disclose in an advertisement for the sale of a vehicle any disclosure required by this code or any qualifying term used in conjunction with advertised credit terms. Unless otherwise provided by statute, the specific size of disclosures or qualifying terms is not prescribed.

SEC. 3. Section 11713 of the Vehicle Code is amended to read:

11713. No holder of any license issued under this article shall do any of the following:

(a) Make or disseminate, or cause to be made or disseminated, before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any



statement which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate, or cause to be so disseminated, any statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.

(b) (1) (A) Advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of the dealer or available to the dealer directly from the manufacturer or distributor of the vehicle at the time of the advertisement or offer. However, a dealer who has been issued an autobroker's endorsement to his or her dealer's license may advertise his or her service of arranging or negotiating the purchase of a new motor vehicle from a franchised new motor vehicle dealer and may specify the line-makes and models of those new vehicles. Autobrokering service advertisements may not advertise the price or payment terms of any vehicle and shall disclose that the advertiser is an autobroker or auto buying service, and shall clearly and conspicuously state the following: "All new cars arranged for sale are subject to price and availability from the selling franchised new car dealer."

(B) As to printed advertisements, the disclosure statement required by subparagraph (A) shall be printed in not less than 10-point bold type size and shall be textually segregated from the other portions of the printed advertisement.

(2) Notwithstanding subparagraph (A), classified advertisements for autobrokering services that measure two column inches or less are exempt from the disclosure statement in subparagraph (A) pertaining to price and availability.

(3) Radio advertisements of a duration of less than 11 seconds that do not reference specific line-makes or models of motor vehicles are exempt from the disclosure statement required in subparagraph (A).

(c) Fail, within 48 hours, in writing to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) Advertise or represent a vehicle as a new vehicle if the vehicle is a used vehicle.

(e) Engage in the business for which the licensee is licensed without having in force and effect a bond as required by this article.



(f) Engage in the business for which the dealer is licensed without at all times maintaining an established place of business as required by this code.

(g) Include, as an added cost to the selling price of a vehicle, an amount for licensing or transfer of title of the vehicle, which is not due to the state unless, prior to the sale, that amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of the fees. However, a dealer may collect from the second purchaser of a vehicle a prorated fee based upon the number of months remaining in the registration year for that vehicle, if the vehicle had been previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this code and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the vehicle.

(h) Employ any person as a salesperson who has not been licensed pursuant to Article 2 (commencing with Section 11800), and whose license is not displayed on the premises of the dealer as required by Section 11812, or willfully fail to notify the department by mail within 10 days of the employment or termination of employment of a salesperson.

(i) Deliver, following the sale, a vehicle for operation on California highways, if the vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000). This subdivision does not apply to the sale of a leased vehicle to the lessee if the lessee is in possession of the vehicle immediately prior to the time of the sale and the vehicle is registered in this state.

(j) Use, or permit the use of, the special plates assigned to him or her for any purpose other than as permitted by Section 11715.

(k) Advertise or otherwise represent, or knowingly allow to be advertised or represented on behalf of, or at the place of business of, the licenseholder that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle. The terms “no downpayment,” “zero down delivers,” or similar terms shall not be advertised unless the vehicle will be sold to any qualified purchaser without a prior payment of any kind or trade-in.



(l) Participate in the sale of a vehicle required to be reported to the Department of Motor Vehicles under Section 5900 or 5901 without making the return and payment of the full sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(m) Permit the use of the dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the purchase or sale of vehicles required to be registered under this code, or permit the use of the dealer's license, supplies, or books to operate a branch location to be used by any other person, whether or not the licensee has any financial or equitable interest or investment in the vehicles purchased or sold by, or the business of, or branch location used by, the other person.

(n) Violate any provision of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

(o) Sell a previously unregistered vehicle without disclosing in writing to the purchaser the date on which any manufacturer's or distributor's warranty commenced.

(p) Accept a purchase deposit relative to the sale of a vehicle, unless the vehicle is present at the premises of the dealer or available to the dealer directly from the manufacturer or distributor of the vehicle at the time the dealer accepts the deposit. Purchase deposits accepted by an autobroker when brokering a retail sale shall be governed by Sections 11736 and 11737.

(q) Consign for sale to another dealer a new vehicle.

(r) Display a vehicle for sale at a location other than an established place of business authorized by the department for that dealer or display a new motor vehicle at the business premises of another dealer registered as an autobroker. This subdivision does not apply to the display of a vehicle pursuant to subdivision (b) of Section 11709 or the demonstration of the qualities of a motor vehicle by way of a test drive.

(s) Use a picture in connection with any advertisement of the price of a specific vehicle or class of vehicles, unless the picture is of the year, make and model being offered for sale. The picture shall not depict a vehicle with optional equipment or a design not actually offered at the advertised price.

(t) Advertise a vehicle for sale that was used by the selling licensee in its business as a demonstrator, executive vehicle, service vehicle, rental, loaner, or lease vehicle, unless the advertisement clearly and conspicuously discloses the previous



use made by that licensee of the vehicle. An advertisement shall not describe any of those vehicles as “new.”

SEC. 4. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It is a violation of this code for the holder of any dealer’s license issued under this article to do any of the following:

(a) Advertise any specific vehicle for sale without identifying the vehicle by its model, model-year, and either its license number or that portion of the vehicle identification number that distinguishes the vehicle from all other vehicles of the same make, model, and model-year. Model-year is not required to be advertised for current model-year vehicles. Year models are no longer current when ensuing year models are available for purchase at retail in California. Any advertisement that offers for sale a class of new vehicles in a dealer’s inventory, consisting of five or more vehicles, that are all of the same make, model, and model-year is not required to include in the advertisement the vehicle identification numbers or license numbers of those vehicles.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees, the California tire fee, as defined in Section 42885 of the Public Resources Code, emission testing fees not exceeding fifty dollars (\$50), actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, finance charges, and any dealer document preparation charge. The dealer document preparation charge shall not exceed forty-five dollars (\$45).

(c) (1) Exclude from an advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer document preparation charge.

(2) The obligations imposed by paragraph (1) shall be satisfied by adding to the advertisement a statement containing no abbreviations and that is worded in substantially the following form: “Plus government fees and taxes, any finance charges, any dealer document preparation charge, and any emission testing charge.”



(3) For purposes of paragraph (1), “advertisement” means any advertisement in a newspaper, magazine, or direct mail publication that is two or more columns in width or one column in width and more than seven inches in length, or on any Web page of a dealer’s Web site that displays the price of a vehicle offered for sale on the Internet, as that term is defined in paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions Code.

(d) Represent the dealer document preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to any person at the advertised total price, exclusive of taxes, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer document preparation charge, which charges shall not exceed forty-five dollars (\$45) for the document preparation charge and not to exceed fifty dollars (\$50) for emission testing plus the actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed. Advertised vehicles shall be sold at or below the advertised total price, with statutorily permitted exclusions, regardless of whether the purchaser has knowledge of the advertised total price.

(f) (1) Advertise for sale, sell, or purchase for resale any new vehicle of a line-make for which the dealer does not hold a franchise.

(2) This subdivision does not apply to any transaction involving any of the following:

(A) A mobilehome.

(B) A recreational vehicle as defined in Section 18010 of the Health and Safety Code.

(C) A commercial coach, as defined in Section 18001.8 of the Health and Safety Code.

(D) An off-highway motor vehicle subject to identification as defined in Section 38012.



(E) A manufactured home.

(F) A new vehicle that will be substantially altered or modified by a converter prior to resale.

(G) A commercial vehicle with a gross vehicle weight rating of more than 10,000 pounds.

(H) A vehicle purchased for export and exported outside the territorial limits of the United States without being registered with the department.

(g) Sell a park trailer, as specified in Section 18009.3 of the Health and Safety Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) Advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. The term “free” includes merchandise or services offered for sale at a price less than the seller’s cost of the merchandise or services.

(i) Advertise vehicles, and related goods or services, at a specified dealer price, with the intent not to supply reasonably expectable demand, unless the advertisement discloses the number of vehicles in stock at the advertised price. In addition, whether or not there are sufficient vehicles in stock to supply a reasonably expectable demand, when phrases such as “starting at,” “from,” “beginning as low as,” or words of similar import are used in reference to an advertised price, the advertisement shall disclose the number of vehicles available at that advertised price.

For purposes of this subdivision, in any newspaper advertisement for a vehicle that is two model-years old or newer, the actual phrase that states the number of vehicles in stock at the advertised price shall be (1) printed in a type size that is at least equal to one-quarter of the type size, and in the same style and color of type, used for the advertised price, however, in no case shall the phrase be printed in less than 8-point type size, and (2) be disclosed immediately above, below, or beside the advertised price without any intervening words, pictures, marks, or symbols.

The disclosure required by this subdivision is in addition to any other disclosure required by this code or any regulation regarding identifying vehicles advertised for sale.



(j) Use the term “rebate” or similar words such as “cash back” in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser .

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, “cash price” has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(l) Advertise a guaranteed trade-in allowance .

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) Use the terms “invoice,” “dealer’s invoice,” “wholesale price,” or similar terms that refer to a dealer’s cost for a vehicle in an advertisement for the sale of a vehicle or advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer’s or distributor’s invoice price to a dealer.

(B) A dealer’s cost.

(2) This subdivision does not apply to either of the following:

(A) Any communication occurring during face-to-face negotiations for the purchase of a specific vehicle if the prospective purchaser initiates a discussion of the vehicle’s invoice price or the dealer’s cost for that vehicle.

(B) Any communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a “commercial purchaser” means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who purchases 10 or more vehicles during a year.

(o) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) Make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional



equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is “fully factory equipped.”

(q) Affix on any new vehicle a supplemental price sticker containing a price that represents the dealer’s asking price which exceeds the manufacturer’s suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer’s name, that the supplemental sticker price is the dealer’s asking price, or words of similar import, and that it is not the manufacturer’s suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer’s suggested retail price.

(3) The supplemental sticker lists each item which is not included in the manufacturer’s suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer’s suggested retail price and the price of the items added by the dealer, then the supplemental sticker price shall set forth that difference and describe it as “added mark-up.”

(r) Advertise any underselling claim, such as “we have the lowest prices” or “we will beat any dealer’s price,” unless the dealer has conducted a recent survey showing that the dealer sells its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) Advertise any incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

For purposes of this subdivision, “incentive” means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) Display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission’s Buyer’s Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.



(u) Fail to disclose in writing to the franchisor of a new motor vehicle dealer the name of the purchaser, date of sale, and the vehicle identification number of each new motor vehicle sold of the line-make of that franchisor, or intentionally submit to that franchisor a false name for the purchaser or false date for the date of sale.

(v) Enter into a contract for the retail sale of a motor vehicle unless the contract clearly and conspicuously discloses whether the vehicle is being sold as a new vehicle or a used vehicle, as defined in this code.

(w) Use a simulated check, as defined in subdivision (a) of Section 22433 of the Business and Professions Code, in an advertisement for the sale or lease of a vehicle.

(x) Fail to disclose, in a clear and conspicuous manner in at least 10-point bold type on the face of any contract for the retail sale of a new motor vehicle that this transaction is, or is not, subject to a fee received by an autobroker from the selling new motor vehicle dealer, and the name of the autobroker, if applicable.

(y) As used in this section, the terms “make” and “model” have the same meaning as is provided in Section 565.3 of Title 49 of the Code of Federal Regulations.

SEC. 5. Section 11713.16 is added to the Vehicle Code, to read:

11713.16. It is a violation of this code for the holder of any dealer’s license issued under this article to do any of the following:

(a) Advertise any used vehicle of the current or prior model-year without expressly disclosing the vehicle as “used,” “previously owned,” or a similar term that indicates that the vehicle is used, as defined in this code.

(b) Use the terms “on approved credit” or “on credit approval” in an advertisement for the sale of a vehicle unless those terms are clearly and conspicuously disclosed and unabbreviated.

(c) Advertise an amount described by terms such as “unpaid balance” or “balance can be financed” unless the total sale price is clearly and conspicuously disclosed and in close proximity to the advertised balance.

(d) Advertise credit terms that fail to comply with the disclosure requirements of Section 226.24 of Title 12 of the Code of Federal Regulations. Advertisements of terms that include escalated payments, balloon payments, or deferred downpayments



shall clearly and conspicuously identify those payments as to amounts and time due.

(e) Advertise as the total sales price of a vehicle an amount that includes a deduction for a rebate. However, a dealer may advertise a separate amount that includes a deduction for a rebate provided that the advertisement clearly and conspicuously discloses, in close proximity to the amount advertised, the price of the vehicle before the rebate deduction and the amount of the rebate, each so identified.

(f) Advertise claims such as “everyone financed,” “no credit rejected,” or similar claims unless the dealer is willing to extend credit to any person under any and all circumstances.

(g) Advertise the amount of any downpayment unless it represents the total payment required of a purchaser prior to delivery of the vehicle, including any payment for sales tax or license. Statements such as “\$_____ delivers,” “\$_____ puts you in a new car” are examples of advertised downpayments.

(h) Advertise the price of a new vehicle or class of new vehicles unless the vehicle or vehicles have all of the equipment listed as standard by the manufacturer or distributor or the dealer has replaced the standard equipment with equipment of higher value.

(i) Fail to clearly and conspicuously disclose in an advertisement for the sale of a vehicle any disclosure required by this code or any qualifying term used in conjunction with advertised credit terms. Unless otherwise provided by statute, the specific size of disclosures or qualifying terms is not prescribed.

SEC. 6. In order to avoid confusion and duplication, it is the intent of the Legislature that on and after the operative date of this act, Sections 260.01, 262.00, and 262.05 of Title 13 of the California Code of Regulations shall have no force and effect.

SEC. 7. 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 for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2002

Governor

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