

AMENDED IN SENATE JUNE 27, 2005

AMENDED IN ASSEMBLY APRIL 19, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1001

Introduced by Assembly Member ~~Nava Nunez~~

February 22, 2005

~~An act to add Section 42703 to the Public Resources Code, relating to recycling. An act to amend Section 11713.1 of the Vehicle Code relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as amended, ~~Nava Nunez~~. ~~Highway construction and repair; recycled aggregate base. Vehicles: dealer's licenses: document charges.~~

Existing law makes it a violation of the Vehicle Code for the holder of any vehicle dealer's license to commit specified actions, including, among other things, to advertise the total price of a vehicle without including all costs to the purchaser at the time of sale, except taxes, vehicle registration fees, the California tire fee, as defined, emission testing fees not exceeding \$50, actual fees charged for certificates, finance charges, and any dealer document preparation charge, and prohibits the dealer document preparation charge from exceeding \$45.

This bill would increase to \$55 the maximum dealer document preparation charge.

~~Existing law requires the State Procurement Officer, in purchasing any materials to be used in paving or paving subbase for use by the Department of Transportation and any other state agency that provides road construction and repair services, to make contracts available for~~

~~items that utilize recycled materials, unless the Director of Transportation determines that the use of the materials is not cost effective based on specified factors.~~

~~This bill would require the department, unless it is determined that the use of the materials is not cost effective, to use recycled aggregate base, as defined, for at least 50% of the total amount of aggregate base used on and after January 1, 2006, and for at least 75% of the total amount of aggregate base used on and after January 1, 2009. The bill would require the Secretary of the Business, Transportation, and Housing Agency, on or before January 1, 2007, to prepare a specified analysis comparing the cost differential, on a regional and a statewide basis, between recycled aggregate base and virgin aggregate base. The bill would require the secretary to continue to prepare that analysis annually until the time that the secretary determines that the cost of recycled aggregate base does not exceed 10% of the cost of virgin aggregate base.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 11713.1 of the Vehicle Code is amended
2 to read:

3 11713.1. It is a violation of this code for the holder of any
4 dealer's license issued under this article to do any of the
5 following:

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

1 (b) Advertise the total price of a vehicle without including all
2 costs to the purchaser at time of sale, except taxes, vehicle
3 registration fees, the California tire fee, as defined in Section
4 42885 of the Public Resources Code, emission testing fees not
5 exceeding fifty dollars (\$50), actual fees charged for certificates
6 pursuant to Section 44060 of the Health and Safety Code, finance
7 charges, and any dealer document preparation charge. The dealer
8 document preparation charge shall not exceed ~~forty-five dollars~~
9 ~~(\$45)~~ *fifty-five dollars (\$55)*.

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

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

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

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

34 (e) Fail to sell a vehicle to any person at the advertised total
35 price, exclusive of taxes, vehicle registration fees, the California
36 tire fee, the fee charged by the state for the issuance of any
37 certificate of compliance or noncompliance pursuant to any
38 statute, finance charges, mobilehome escrow fees, the amount of
39 any city, county, or city and county imposed fee or tax for a
40 mobilehome, and any dealer document preparation charge, which

1 charges shall not exceed ~~forty-five dollars (\$45)~~ *fifty-five dollars*
2 *(\$55)* for the document preparation charge and ~~not to exceed~~ fifty
3 dollars (\$50) for emission testing plus the actual fees charged for
4 certificates pursuant to Section 44060 of the Health and Safety
5 Code, while the vehicle remains unsold, unless the advertisement
6 states *that* the advertised total price is good only for a specified
7 time and the time has elapsed. Advertised vehicles shall be sold
8 at or below the advertised total price, with statutorily permitted
9 exclusions, regardless of whether the purchaser has knowledge of
10 the advertised total price.

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

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

16 (A) A mobilehome.

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

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

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

23 (E) A manufactured home.

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

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

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

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

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

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

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

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

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

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

34 (l) Advertise a guaranteed trade-in allowance.

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

38 (n) (1) Use the terms “invoice,” “dealer’s invoice,”
39 “wholesale price,” or similar terms that refer to a dealer’s cost for
40 a vehicle in an advertisement for the sale of a vehicle or advertise

1 that the selling price of a vehicle is above, below, or at either of
2 the following:

3 (A) The manufacturer's or distributor's invoice price to a
4 dealer.

5 (B) A dealer's cost.

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

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

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

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

23 (p) Make any untrue or misleading statement indicating that a
24 vehicle is equipped with all the factory installed optional
25 equipment the manufacturer offers, including, but not limited to,
26 a false statement that a vehicle is "fully factory equipped."

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

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

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

39 (3) The supplemental sticker lists each item ~~which~~ *that* is not
40 included in the manufacturer's suggested retail price, and

1 discloses the additional price of each item. If the supplemental
2 sticker price is greater than the sum of the manufacturer's
3 suggested retail price and the price of the items added by the
4 dealer, then the supplemental sticker price shall set forth that
5 difference and describe it as "added mark-up."

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

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

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

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

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

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

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

39 (x) Fail to disclose, in a clear and conspicuous manner in at
40 least 10-point bold type on the face of any contract for the retail

1 sale of a new motor vehicle that this transaction is, or is not,
2 subject to a fee received by an autobroker from the selling new
3 motor vehicle dealer, and the name of the autobroker, if
4 applicable.

5 (y) As used in this section, the terms “make” and “model”
6 have the same meaning as is provided in Section 565.3 of Title
7 49 of the Code of Federal Regulations.

8 ~~SECTION 1. It is the intent of the Legislature that the~~
9 ~~Department of Transportation explore all feasible means to~~
10 ~~stimulate increased usage of recycled aggregate base throughout~~
11 ~~the 12 regional districts.~~

12 ~~SEC. 2. Section 42703 is added to the Public Resources~~
13 ~~Code, to read:~~

14 ~~42703. (a) Unless the Director of the Department of~~
15 ~~Transportation determines that the use of the materials is not cost~~
16 ~~effective, the department shall annually phase in the use of~~
17 ~~recycled aggregate base. The department shall require the use of~~
18 ~~recycled aggregate base in lieu of virgin aggregate base at the~~
19 ~~following levels for state highway construction or repair projects~~
20 ~~that use asphalt as a construction material:~~

21 ~~(1) On and after January 1, 2006, not less than 50 percent, by~~
22 ~~ton, of the total aggregate base used shall be recycled aggregate~~
23 ~~base.~~

24 ~~(2) On and after January 1, 2009, not less than 75 percent, by~~
25 ~~ton, of the total aggregate base used shall be recycled aggregate~~
26 ~~base.~~

27 ~~(b) (1) The Secretary of the Business, Transportation and~~
28 ~~Housing Agency shall, on or before January 1, 2007, and~~
29 ~~annually thereafter, prepare an analysis comparing the cost~~
30 ~~differential, on a regional and on a statewide basis, between~~
31 ~~recycled aggregate base and virgin aggregate base. The analysis~~
32 ~~shall include, at a minimum, all of the following:~~

33 ~~(i) The lifespan and duration of the recycled aggregate base.~~

34 ~~(ii) The maintenance cost of the recycled aggregate base.~~

35 ~~(iii) The quantity of recycled aggregate base needed per mile~~
36 ~~paved.~~

37 ~~(2) The secretary shall continue to prepare the analysis~~
38 ~~required by paragraph (1) annually until the time that the~~
39 ~~secretary determines that the cost of recycled aggregate base does~~
40 ~~not exceed 10 percent of the cost of virgin aggregate base.~~

1 ~~(e) For purposes of this section, “recycled aggregate base” is~~
2 ~~recycled asphalt and concrete used under paving materials in the~~
3 ~~construction of streets, freeways, and building sites, and~~
4 ~~includes crushed miscellaneous base, as defined in the Standard~~
5 ~~Specifications for Public Works Construction, and reduced Class~~
6 ~~2 aggregate base, as defined by the department.~~
7 ~~(d) The department shall set standardized specifications for~~
8 ~~recycled aggregate base that shall be used statewide. The~~
9 ~~guidelines of the American Society of Testing Materials shall be~~
10 ~~used as the controlling test guidelines statewide for recycled~~
11 ~~aggregate base.~~