

Introduced by Senator HuffFebruary 10, 2010

An act to amend Sections 11709, 11806, 11812, and 11819 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1004, as introduced, Huff. Vehicles: licensed dealers and salespersons.

(1) Existing law imposes licensing and regulatory requirements on vehicle dealers and vehicle salespersons. Existing law requires a dealer's place of business to have posted the license issued by the Department of Motor Vehicles to the dealer and to each salesperson employed by the dealer.

This bill would instead authorize the dealer to post a true and exact copy of the license issued by the Department of Motor Vehicles to the dealer and to each salesperson employed by the dealer and would make other conforming changes.

(2) Existing law authorizes the department to refuse to issue, to suspend, or to revoke a vehicle salesperson's license when it determines, among other things, that the applicant or licensee has acted as a vehicle salesperson or engaged in that activity for, or on behalf of, more than one licensed dealer whose business does not have identical ownership and structure. Existing law provides that the law does not preclude a vehicle salesperson from working at more than one location of one licensed dealer if the business of that dealer has identical ownership and structure.

This bill would authorize the department to refuse to issue, to suspend, or to revoke a vehicle salesperson's license when it determines, among other things, that the applicant or licensee has concurrently acted as a

vehicle salesperson and engaged in that activity for, or on behalf of, more than one licensed dealer unless all of the licensed dealers share controlling ownership. The bill would also provide that the law does not preclude a vehicle salesperson from working for more than one dealer if each dealer shares controlling ownership, as defined.

(3) Existing law requires the salesperson’s license to be displayed continuously during employment and requires that the license be returned to the salesperson once employment is terminated. A violation of these requirements is a crime.

This bill would require the dealer to display the license or a true and exact copy of the license continuously at each location where the salesperson is actually engaged in the selling of vehicles. Once the employment is terminated, this bill would require all copies used by the dealer for posting or display to be destroyed by the dealer. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(4) 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 11709 of the Vehicle Code is amended
2 to read:
3 11709. (a) A dealer’s established place of business, and other
4 sites or locations as may be operated and maintained by the dealer
5 in conjunction with his or her established place of business, shall
6 have posted, in a place conspicuous to the public in each and every
7 location, the license, *or a true and exact copy of the license*, issued
8 by the department to the dealer and to each ~~salesman~~ *salesperson*
9 employed by the dealer and shall have erected or posted thereon
10 signs or devices providing information relating to the dealer’s
11 name and the location and address of the dealer’s established place
12 of business to enable any person doing business with the dealer to
13 identify him or her properly. ~~Every such~~ *A sign erected or posted*
14 *pursuant to this subdivision*, on an established place of business,

1 shall have an area of not less than two square feet per side displayed
2 and shall contain lettering of sufficient size to enable the sign to
3 be read from a distance of at least 50 feet. This section shall not
4 apply to a dealer who is a wholesaler involved for profit only in
5 the sale of vehicles between licensed dealers.

6 (b) Notwithstanding Section 11704 and this section, a dealer
7 may display vehicles at a fair, exposition, or similar exhibit without
8 securing a branch license, if no actual sales are made at those
9 events and the display does not exceed 30 days.

10 (c) ~~All vehicles~~ A vehicle displayed pursuant to subdivision (b)
11 or (e) shall be identified by a sign or device providing information
12 relating to the dealer's name and the location and address of the
13 dealer's established place of business.

14 (d) This section shall not be applicable to a dealer who deals
15 only in off-highway vehicles subject to identification, as defined
16 in Section 38012.

17 (e) Notwithstanding Section 11704 and this section, a vessel
18 dealer may display a trailer and may sell a trailer in conjunction
19 with the sale of a vessel at a fair, exposition, or similar exhibit
20 without securing a branch license; if the display does not exceed
21 30 days.

22 SEC. 2. Section 11806 of the Vehicle Code is amended to read:

23 11806. The department, after notice and hearing, may refuse
24 to issue, or may suspend or revoke, a vehicle salesperson's license
25 when it makes any of the following findings and determinations:

26 (a) The applicant or licensee has outstanding an unsatisfied final
27 court judgment rendered in connection with an activity licensed
28 under this division.

29 (b) The applicant or licensee has failed to pay funds or property
30 received in the course of employment to a dealer entitled thereto.

31 (c) The applicant or licensee has failed to surrender possession
32 of, or failed to return, ~~any~~ a vehicle to a dealer lawfully entitled
33 thereto upon termination of employment.

34 (d) A cause for refusal, suspension, or revocation exists under
35 any provision of Sections 11302 to 11909, inclusive.

36 (e) The applicant was previously the holder of an occupational
37 license issued by another state authorizing the same or similar
38 activities of a license issued under this division; and that license
39 was revoked or suspended for cause and was never reissued, or

1 was suspended for cause, and the terms of suspension have not
 2 been fulfilled.

3 (f) The applicant or licensee has acted as a dealer by purchasing
 4 or selling vehicles while employed by a licensed dealer without
 5 reporting that fact to the dealer or without utilizing the report of
 6 sale documents issued to the dealer.

7 (g) The applicant or licensee has *concurrently* acted as a vehicle
 8 salesperson ~~or~~ *and* engaged in that activity for, or on behalf of,
 9 more than one licensed dealer ~~whose business does not have~~
 10 ~~identical ownership and structure unless all of the licensed dealers~~
 11 *share controlling ownership*. Nothing in this section restricts the
 12 number of dealerships of which a person may be an owner, officer,
 13 or director, or precludes a vehicle salesperson from working ~~at for~~
 14 ~~more than one location of one licensed dealer if the business of~~
 15 ~~that dealer has identical ownership and structure~~ *dealer if each*
 16 *dealer shares controlling ownership. For purposes of this*
 17 *subdivision, controlling ownership means more than 50 percent*
 18 *of all the interests are held in the dealer.*

19 (h) The applicant or licensee has acted as a vehicle salesperson
 20 without having first complied with Section 11812.

21 (i) The applicant or licensee was a managerial employee of a
 22 dealer during the time a person under the direction or control of
 23 the managerial employee committed wrongful acts which resulted
 24 in the suspension or revocation of the dealer’s license.

25 (j) The applicant or licensee has acted as a dealer by purchasing
 26 or selling any vehicle and using the license, report of sale books,
 27 purchase drafts, financial institution accounts, or other supplies of
 28 a dealer to facilitate that purchase or sale, when the applicant or
 29 licensee is not acting on behalf of that dealer.

30 SEC. 3. Section 11812 of the Vehicle Code is amended to read:

31 11812. (a) ~~Every~~ *A* vehicle salesperson licensed under this
 32 article shall, at the time of employment, deliver *his or her*
 33 *salesperson’s license* to his or her employing dealer ~~his or her~~
 34 ~~salesperson’s license to be posted~~ *for the posting of the salesperson*
 35 *license or a true and exact copy of the salesperson’s license* in a
 36 place conspicuous to the public ~~on the premises~~ *at each location*
 37 where he or she is actually engaged in the selling of vehicles for
 38 the employing dealer.

39 (b) The license, *or a true and exact copy of the license*, shall be
 40 displayed continuously *at each location where he or she is actually*

1 *engaged in the selling of vehicles* during the employment. If a
2 vehicle salesperson's employment is terminated, the license shall
3 be returned to the salesperson *and all copies of the license used*
4 *by the dealer for posting or display shall be destroyed by the*
5 *dealer.*

6 (c) Every vehicle salesperson licensed pursuant to this article
7 shall report in writing to the department every change of residence
8 address within five days of the change.

9 (d) Any person currently or previously licensed under this article
10 who no longer resides at the address last filed with the department
11 may be served with process issued pursuant to Chapter 5
12 (commencing with Section 11500) of Part 1 of Division 3 of Title
13 2 of the Government Code by registered mail at that residence,
14 unless the person has notified the department in writing of another
15 address where service may be made.

16 SEC. 4. Section 11819 of the Vehicle Code is amended to read:

17 11819. It is unlawful for any person:

18 (a) To lend a salesperson's license to any other person or
19 knowingly permit its use by another.

20 (b) To display or represent any salesperson's license not issued
21 to the person as being his or her license.

22 (c) To fail or refuse to surrender to the department, upon its
23 lawful demand, any salesperson's license which has been
24 suspended, revoked or canceled.

25 (d) To permit any unlawful use of a salesperson's license issued
26 to him or her.

27 (e) To photograph, photostat, duplicate, or in any way reproduce
28 any salesperson's license or facsimile thereof in such a manner
29 that it could be mistaken for a valid license, or to display or have
30 in possession any such photograph, photostat, duplicate,
31 reproduction, or facsimile unless *for display by a dealer, or as*
32 *authorized by this code.*

33 SEC. 5. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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