

AMENDED IN SENATE MARCH 16, 2010

SENATE BILL

No. 1004

Introduced by Senator Huff

(Coauthors: Senators Cox, Denham, Harman, and Wyland)

(Coauthors: Assembly Members DeVore, Fuller, Gilmore, Silva, and Smyth)

February 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 amended, 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, for whom that salesperson works, have the same 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 provided that all of the licensed dealers for whom that salesperson works have common 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

1 location, the license, or a true and exact copy of the license, issued
2 by the department to the dealer and to each salesperson employed
3 by the dealer and shall have erected or posted thereon signs or
4 devices providing information relating to the dealer's name and
5 the location and address of the dealer's established place of
6 business to enable any person doing business with the dealer to
7 identify him or her properly. A sign erected or posted pursuant to
8 this subdivision, on an established place of business, shall have
9 an area of not less than two square feet per side displayed and shall
10 contain lettering of sufficient size to enable the sign to be read
11 from a distance of at least 50 feet. This section shall not apply to
12 a dealer who is a wholesaler involved for profit only in the sale of
13 vehicles between licensed dealers.

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

18 (c) A vehicle displayed pursuant to subdivision (b) or (e) shall
19 be identified by a sign or device providing information relating to
20 the dealer's name and the location and address of the dealer's
21 established place of business.

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

25 (e) Notwithstanding Section 11704 and this section, a vessel
26 dealer may display a trailer and may sell a trailer in conjunction
27 with the sale of a vessel at a fair, exposition, or similar exhibit
28 without securing a branch license if the display does not exceed
29 30 days.

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

31 11806. The department, after notice and hearing, may refuse
32 to issue, or may suspend or revoke, a vehicle salesperson's license
33 when it makes any of the following findings and determinations:

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

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

1 (c) The applicant or licensee has failed to surrender possession
2 of, or failed to return, a vehicle to a dealer lawfully entitled thereto
3 upon termination of employment.

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

6 (e) The applicant was previously the holder of an occupational
7 license issued by another state authorizing the same or similar
8 activities of a license issued under this division and that license
9 was revoked or suspended for cause and was never reissued, or
10 was suspended for cause, and the terms of suspension have not
11 been fulfilled.

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

16 (g) The applicant or licensee has concurrently acted as a vehicle
17 salesperson and engaged in that activity for, or on behalf of, more
18 than one licensed dealer unless all of the licensed dealers ~~share~~
19 ~~controlling ownership~~ *for whom that salesperson works have*
20 *common controlling ownership*. Nothing in this section restricts
21 the number of dealerships of which a person may be an owner,
22 officer, or director, or precludes a vehicle salesperson from working
23 for more than one ~~dealer if each dealer shares controlling~~
24 ~~ownership~~. ~~For purposes of this subdivision, controlling ownership~~
25 ~~means more than 50 percent of all the interests are held in the~~
26 ~~dealer.~~ *dealer, provided that all of the licensed dealers for whom*
27 *that salesperson works have common controlling ownership. For*
28 *purposes of this subdivision, dealers have common controlling*
29 *ownership when more than 50 percent of the ownership interests*
30 *in each dealer are held by the same person or persons, either*
31 *directly or through one or more wholly owned subsidiary entities.*

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

34 (i) The applicant or licensee was a managerial employee of a
35 dealer during the time a person under the direction or control of
36 the managerial employee committed wrongful acts which resulted
37 in the suspension or revocation of the dealer's license.

38 (j) The applicant or licensee has acted as a dealer by purchasing
39 or selling any vehicle and using the license, report of sale books,
40 purchase drafts, financial institution accounts, or other supplies of

1 a dealer to facilitate that purchase or sale, when the applicant or
2 licensee is not acting on behalf of that dealer.

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

4 11812. (a) A vehicle salesperson licensed under this article
5 shall, at the time of employment, deliver his or her salesperson's
6 license to his or her employing dealer for the posting of the
7 ~~salesperson~~ *salesperson's* license or a true and exact copy of the
8 salesperson's license in a place conspicuous to the public at each
9 location where he or she is actually engaged in the selling of
10 vehicles for the employing dealer.

11 (b) The license, or a true and exact copy of the license, shall be
12 displayed continuously at each location where he or she is actually
13 engaged in the selling of vehicles during the employment. If a
14 vehicle salesperson's employment is terminated, the license shall
15 be returned to the salesperson and all copies of the license used
16 by the dealer for posting or display shall be destroyed by the dealer.

17 (c) ~~Every~~ A vehicle salesperson licensed pursuant to this article
18 shall report in writing to the department every change of residence
19 address within five days of the change.

20 (d) ~~Any~~ A person currently or previously licensed under this
21 article who no longer resides at the address last filed with the
22 department may be served with process issued pursuant to Chapter
23 5 (commencing with Section 11500) of Part 1 of Division 3 of
24 Title 2 of the Government Code by registered mail at that residence,
25 unless the person has notified the department in writing of another
26 address where service may be made.

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

28 11819. It is unlawful for ~~any~~ a person:

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

31 (b) To display or represent ~~any~~ a salesperson's license not issued
32 to the person as being his or her license.

33 (c) To fail or refuse to surrender to the department, upon its
34 lawful demand, ~~any~~ a salesperson's license ~~which~~ *that* has been
35 suspended, revoked, or canceled.

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

38 (e) To photograph, photostat, duplicate, or in any way reproduce
39 ~~any~~ a salesperson's license or facsimile thereof in ~~such~~ a manner
40 that it could be mistaken for a valid license, or to display or have

1 in possession—~~any such~~ a photograph, photostat, duplicate,
2 reproduction, or facsimile unless for display by a dealer, or as
3 authorized by this code.

4 SEC. 5. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.