

Senate Bill No. 1004

Passed the Senate August 26, 2010

Secretary of the Senate

Passed the Assembly August 17, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 11709, 11710.2, 11713.20, 11806, 11812, and 11819 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

SB 1004, Huff. Vehicles: licensed dealers and salespersons: credit scores.

(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 requires the applicant of a dealer’s or remanufacturer’s license, before the license is issued or renewed by the department, to procure and file with the department a bond, as provided. Existing law authorizes the director of the department, if a deposit is given instead of the bond, to order the deposit returned at the expiration of specified dates.

This bill would also authorize the director to order the deposit to be returned at the expiration of 5 years from the date the licensee secured and maintained a dealer bond, after posting a deposit, if the director is satisfied that there are no outstanding claims against the deposit.

(3) Existing law requires a dealer that obtains a consumer credit score from a consumer credit reporting agency, for use in connection with an application for credit initiated by a consumer for the purchase or lease of a motor vehicle for specified uses, to provide, prior to the sale, certain information in at least 10-point boldface type on a document separate from the sale or lease contract, that includes, among other things, the credit score obtained and used by the dealer and the name of the credit reporting agency providing the credit score to the dealer.

This bill would delete these requirements and instead require a dealer to provide a document, in at least 10-point type, that contains certain information pertaining to credit scores, including each credit score obtained and used by the dealer and a statement that a consumer report or credit report is a record of the consumer's credit history and includes information about whether the consumer pays his or her obligations on time and how much the consumer owes to creditors, among other things.

The bill would provide that use of a specified model form, that meets federal requirements for form and content, would be deemed to comply with the above requirements. The bill would also provide that it does not limit or restrict any rights or remedies otherwise available under existing law.

(4) 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, for whom that salesperson works, have common controlling ownership. The bill would also provide that the law does not preclude a vehicle salesperson from working for more than one dealer provided that all of the licensed dealers for whom that salesperson works have common controlling ownership, as defined.

(5) 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.

(6) 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 11709 of the Vehicle Code is amended to read:

11709. (a) A dealer's established place of business, and other sites or locations as may be operated and maintained by the dealer in conjunction with his or her established place of business, shall have posted, in a place conspicuous to the public in each and every location, the license, or a true and exact copy of the license, issued by the department to the dealer and to each salesperson employed by the dealer and shall have erected or posted thereon signs or devices providing information relating to the dealer's name and the location and address of the dealer's established place of business to enable any person doing business with the dealer to identify him or her properly. A sign erected or posted pursuant to this subdivision, on an established place of business, shall have an area of not less than two square feet per side displayed and shall contain lettering of sufficient size to enable the sign to be read from a distance of at least 50 feet. This section shall not apply to a dealer who is a wholesaler involved for profit only in the sale of vehicles between licensed dealers.

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

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

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

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

SEC. 2. Section 11710.2 of the Vehicle Code is amended to read:

11710.2. If a deposit is given instead of the bond required by Section 11710 both of the following apply:

(a) (1) The director may order the deposit returned at the expiration of any of the following dates:

(A) Three years from the date an applicant for a dealer's license who has operated a business of selling vehicles under a temporary permit has ceased to do business.

(B) Three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the deposit.

(C) Five years from the date a licensee secured and maintained a dealer bond, pursuant to Section 11710, after posting a deposit, if the director is satisfied that there are no outstanding claims against the deposit.

(2) A judge of a superior court may order the return of the deposit prior to the expiration of the dates provided in paragraph (1) upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(b) If either the director, department, or state is a defendant in any action instituted to recover all or any part of the deposit, or any action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in processing claims against the deposit.

SEC. 3. Section 11713.20 of the Vehicle Code is amended to read:

11713.20. (a) A dealer that obtains a consumer credit score, as defined in subdivision (b) of Section 1785.15.1 of the Civil Code, from a consumer credit reporting agency, as defined in

subdivision (d) of Section 1785.3 of the Civil Code, for use in connection with an application for credit initiated by a consumer for the purchase or lease of a motor vehicle for personal, family, or household use, shall provide, prior to the sale or lease of the vehicle, the following information to the consumer in at least 10-point type on a document separate from the sale or lease contract:

- (1) Each credit score obtained and used by the dealer.
- (2) A statement that a consumer report, or a credit report, is a record of the consumer's credit history and includes information about whether the consumer pays his or her obligations on time and how much the consumer owes to creditors.
- (3) A statement that a credit score is a number that takes into account information in a consumer report and that a credit score can change over time to reflect changes in the consumer's credit history.
- (4) A statement that the consumer's credit score can affect whether the consumer can obtain credit and what the cost of that credit will be.
- (5) The range of possible credit scores under the model used to generate that credit score.
- (6) The distribution of credit scores among consumers who are scored under the same scoring model that is used to generate the consumer's credit score using the same scale as that of the credit score that is provided to the consumer, presented in the form of a bar graph containing a minimum of six bars that illustrates the percentage of consumers with credit scores within the range of scores reflected in each bar, or by other clear and readily understandable graphical means, or a clear and readily understandable statement informing the consumer how his or her credit score compares to the scores of other consumers. Use of a graph or statement obtained from the person providing the credit score that meets the requirements of this paragraph is deemed to comply with this requirement.
- (7) The date the credit score was created.
- (8) The name of the consumer reporting agency or other person that provided each credit score obtained and used by the dealer.
- (9) A statement that the consumer is encouraged to verify the accuracy of the information contained in the consumer report and has the right to dispute any inaccurate information in the report.

(10) A statement that federal law gives the consumer the right to obtain copies of his or her consumer reports directly from the consumer reporting agencies, including a free report from each of the nationwide consumer reporting agencies once during any 12-month period.

(11) Contact information for the centralized source from which consumers may obtain their free annual consumer reports.

(12) A statement directing consumers to the Internet Web sites of the Federal Reserve Board and Federal Trade Commission to obtain more information about consumer reports.

(b) Appropriate use by a dealer of the model form described in Section 640.5(e)(5) of Title 16 of the Code of Federal Regulations and contained in Title 16 of the Code of Federal Regulations Part B, Appendix B, Model Form B-4, as promulgated on January 15, 2010, is deemed to comply with the requirements of this section. Use of the model form is optional.

(c) This section does not apply to the purchase or lease of a motorcycle or an off-highway motor vehicle subject to identification under Section 38010.

(d) This section does not limit or restrict any rights or remedies otherwise available under existing law.

SEC. 4. Section 11806 of the Vehicle Code is amended to read:

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

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

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

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

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

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

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

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

(g) 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 for whom that salesperson works have common controlling ownership. Nothing in this section restricts the number of dealerships of which a person may be an owner, officer, or director, or precludes a vehicle salesperson from working for more than one dealer, provided that all of the licensed dealers for whom that salesperson works have common controlling ownership. For purposes of this subdivision, dealers have common controlling ownership when more than 50 percent of the ownership interests in each dealer are held by the same person or persons, either directly or through one or more wholly owned subsidiary entities.

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

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

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

SEC. 5. Section 11812 of the Vehicle Code is amended to read:

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

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

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

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

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

SEC. 6. Section 11819 of the Vehicle Code is amended to read: 11819. It is unlawful for a person:

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

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

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

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

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

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 _____, 2010

Governor