

AMENDED IN SENATE JUNE 25, 2012

AMENDED IN ASSEMBLY MAY 22, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1447**

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**Introduced by Assembly Member Feuer**

January 4, 2012

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An act to amend Section 2981 of, and to add Sections 1795.51 and 2983.35 to; the Civil Code, and to add Sections 241 and 241.1 to the Vehicle Code, relating to automobile sales.

LEGISLATIVE COUNSEL'S DIGEST

AB 1447, as amended, Feuer. Automobile sales finance: sellers.

The Rees-Levering Motor Vehicle Sales and Finance Act regulates conditional sales contracts for motor vehicles, and, among other things, requires a person selling or leasing a motor vehicle under a conditional sale contract to disclose certain information to the buyer of the vehicle. A willful violation of those provisions is a misdemeanor and may render the contract unenforceable. A seller who violates the provisions of the act may also be liable to the buyer for monetary damages.

This bill would require a buy-here-pay-here dealer, as defined, to issue a 30-day or 1,000-mile warranty to the buyer or lessee of a used vehicle bought *or leased* at retail price, and would require the warranty to cover the engine, transmission, drive axle, *front and rear wheel drive components, engine cooling system, brakes, radiator, front and rear suspension systems, steering, seatbelts, inflatable restraint systems, catalytic converter or other emissions components, heater, seals and gaskets, electrical, electronic, and computer components, alternator,*

generator, starter, and ignition system. The bill would require the buy-here-pay-here dealer to either repair those covered parts that fail or, *at the buy-here-pay-here dealer's election, to cancel the sale or lease and reimburse the buyer or lessee, as specified, and would permit the warranty language to exclude coverage under certain conditions specified. The bill would require the buy-here-pay-here dealer to pay 100% of the cost of labor and parts for any repairs under the warranty.* The bill would void an agreement for the purchase or lease of a vehicle that waives, limits, or disclaims these requirements. The bill would provide that a warranty is deemed to have been issued if a buy-here-pay-here dealer fails to issue a warranty pursuant to these provisions. The bill would prohibit a buy-here-pay-here dealer from requiring, as part of a contract, the buyer to make payments in person, with the exception of the downpayment for the vehicle, would prohibit the buy-here-pay-here dealer from, after the sale of the vehicle, tracking the vehicle using ~~Global Positioning System~~ *electronic tracking* technology and from disabling the vehicle with ~~ignition override~~ *starter interrupt* technology, except as specified, and would make a violation of these prohibitions a misdemeanor punishable by a fine of up to \$1,000. By creating a new crime, this bill would impose a state-mandated local program. The bill would also make findings and declarations related to buy-here-pay-here dealers.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) A growing number of Californians need cars to get to work
- 4 but cannot qualify for conventional automobile loans.
- 5 (b) Some used car dealers, known as buy-here-pay-here, operate
- 6 a business model under which they stock and sell older,
- 7 high-mileage vehicles to consumers that cannot otherwise qualify
- 8 for conventional automobile loans. Unlike traditional new and

1 used car dealers, buy-here-pay-here dealers do not assign sales  
2 and lease contracts they generate to third-party finance or lease  
3 sources. Because buy-here-pay-here dealers maintain and  
4 administer their own sales and lease contract portfolios, they do  
5 not have to comply with underwriting and loan policies set by  
6 traditional lenders and are free to set financial terms that are  
7 significantly higher than conventional automobile loans or leases.

8 (c) Consumers who have little or no alternative other than to  
9 buy or lease a used vehicle from a buy-here-pay-here dealer are  
10 vulnerable to unfair or deceptive practices by buy-here-pay-here  
11 dealers.

12 (d) It is the intent of the Legislature in enacting this act to curb  
13 unfair and deceptive practices by buy-here-pay-here dealers and  
14 to protect the consuming public.

15 ~~SEC. 2. Section 1795.51 is added to the Civil Code, to read:~~

16 ~~1795.51. (a) No buy-here-pay-here dealer, as that term is~~  
17 ~~defined in subdivision (s) of Section 2981, shall sell or lease a used~~  
18 ~~vehicle, as defined in Section 665 of the Vehicle Code, at retail~~  
19 ~~price without giving the buyer or lessee a written warranty which~~  
20 ~~shall at minimum have a duration of at least 30 days from the date~~  
21 ~~of the contract or when the odometer has registered 1,000 miles~~  
22 ~~from that shown on the contract, whichever occurs first.~~

23 ~~(b) The written warranty shall require the buy-here-pay-here~~  
24 ~~dealer or its agent to repair or, at the election of the~~  
25 ~~buy-here-pay-here dealer, reimburse the retail buyer or lessee for~~  
26 ~~the reasonable cost of repairing the failure of a covered part.~~  
27 ~~Covered parts shall at least include the following items:~~

28 ~~(1) Engine. All lubricated parts, water pump, fuel pump,~~  
29 ~~manifolds, engine block, cylinder head, rotary engine housings,~~  
30 ~~flywheel, and electronic components.~~

31 ~~(2) Transmission. The transmission case, internal parts, the~~  
32 ~~torque converter, and electronic components.~~

33 ~~(3) Drive axle. Front and rear drive axle housings and internal~~  
34 ~~parts, axle shafts, propeller shafts, universal joints, and electronic~~  
35 ~~components.~~

36 ~~(4) Brakes. Master cylinder, vacuum assist booster, wheel~~  
37 ~~cylinders, hydraulic lines and fittings, disc brake calipers, and~~  
38 ~~electronic components.~~

39 ~~(5) Radiator.~~

- 1     ~~(6) Steering. The steering gear housing and all internal parts,~~  
2     ~~power steering pump, valve body, piston, rack, and electronic~~  
3     ~~components.~~
- 4     ~~(7) The alternator, generator, starter, and ignition system,~~  
5     ~~excluding the battery.~~
- 6     ~~(e) The buy-here-pay-here dealer shall make the repair or~~  
7     ~~reimbursement notwithstanding the fact that the warranty period~~  
8     ~~has expired, provided that the retail buyer or lessee notified the~~  
9     ~~buy-here-pay-here dealer of the failure of a covered part within~~  
10    ~~the specified warranty period.~~
- 11    ~~(d) The written warranty may contain additional language~~  
12    ~~excluding coverage of any of the following:~~
- 13    ~~(1) For a failure of a covered part caused by a lack of customary~~  
14    ~~maintenance after the vehicle was delivered to the buyer or lessee.~~
- 15    ~~(2) For a failure of a covered part caused by collision, abuse,~~  
16    ~~negligence, theft, vandalism, fire, or other casualty and damage~~  
17    ~~from the environment (windstorm, lightning, road hazards, etc.)~~  
18    ~~that occurred after the vehicle was delivered to the buyer or lessee.~~
- 19    ~~(3) If the odometer has been stopped or altered after the vehicle~~  
20    ~~was delivered to the buyer or lessee and the vehicle's actual~~  
21    ~~mileage cannot be readily determined, or if any covered part failed~~  
22    ~~due to an alteration of that part after the vehicle was delivered to~~  
23    ~~the buyer or lessee.~~
- 24    ~~(4) For maintenance services and the parts used in connection~~  
25    ~~with those services, such as seals, gaskets, oil, or grease, unless~~  
26    ~~required in connection with the repair of a covered part.~~
- 27    ~~(5) For a motor tune-up.~~
- 28    ~~(6) For a failure resulting from racing or other competition after~~  
29    ~~the vehicle was delivered to the buyer or lessee.~~
- 30    ~~(7) For a failure caused by towing a trailer or another vehicle~~  
31    ~~after the vehicle was delivered to the buyer or lessee, unless the~~  
32    ~~used vehicle is equipped for towing as recommended by the~~  
33    ~~manufacturer.~~
- 34    ~~(8) If the used vehicle is used to carry passengers for hire.~~
- 35    ~~(9) If the used vehicle is rented to someone other than the retail~~  
36    ~~buyer or lessee.~~
- 37    ~~(10) For repair of valves, rings, or both to correct low~~  
38    ~~compression, oil consumption, or both, which is considered normal~~  
39    ~~wear.~~

1 ~~(11) For property damage arising or allegedly arising out of the~~  
2 ~~failure of a covered part.~~

3 ~~(12) For loss of the use of the used vehicle, loss of time,~~  
4 ~~inconvenience, commercial loss, or consequential damages, except~~  
5 ~~for reasonable towing expenses.~~

6 ~~(e) If the retail buyer or lessee notifies the buy-here-pay-here~~  
7 ~~dealer within the specified warranty period that the vehicle does~~  
8 ~~not conform to the written warranties, and the nonconformity is~~  
9 ~~not otherwise excluded from coverage, the buy-here-pay-here~~  
10 ~~dealer shall either repair the vehicle to conform to the written~~  
11 ~~warranties or cancel the sale or lease contract. In the event that the~~  
12 ~~buy-here-pay-here dealer cancels the sale or lease contract, all of~~  
13 ~~the following shall apply:~~

14 ~~(1) The buy-here-pay-here dealer shall give written notice to~~  
15 ~~the buyer or lessee of the election to cancel. Notice may be given~~  
16 ~~by personal delivery or by first-class mail.~~

17 ~~(2) The buyer or lessee shall return the vehicle in the same~~  
18 ~~condition as when it was delivered by the buy-here-pay-here dealer,~~  
19 ~~reasonable wear and tear and any nonconformity with the written~~  
20 ~~warranties excepted.~~

21 ~~(3) The buyer or lessee shall return to the buy-here-pay-here~~  
22 ~~dealer documents related to the sale that are necessary in order to~~  
23 ~~transfer ownership, including vehicle title and registration~~  
24 ~~documents.~~

25 ~~(4) The buy-here-pay-here dealer shall refund to the buyer or~~  
26 ~~lessee, no later than the day after the day on which the buyer or~~  
27 ~~lessee returns the vehicle, all amounts paid under the sale or lease~~  
28 ~~contract, less a reasonable amount for damage sustained by the~~  
29 ~~vehicle after the sale or lease, excepting damage caused by a~~  
30 ~~nonconformity with the written warranty.~~

31 ~~(f) In any proceeding in which the exclusion of coverage~~  
32 ~~permitted in subdivision (d) or the deduction allowed in paragraph~~  
33 ~~(4) of subdivision (e) is an issue, the buy-here-pay-here dealer~~  
34 ~~shall have the burden of proof.~~

35 ~~(g) Any agreement entered into by a buyer for the purchase or~~  
36 ~~lease of a used motor vehicle that waives, limits, or disclaims the~~  
37 ~~rights set forth in this section shall be void as contrary to public~~  
38 ~~policy.~~

1 ~~(h) If a buy-here-pay-here dealer fails to give the written~~  
2 ~~warranty required by this section, the buy-here-pay-here dealer~~  
3 ~~shall be deemed to have issued the warranty as a matter of law.~~

4 *SEC. 2. Section 1795.51 is added to the Civil Code, to read:*

5 *1795.51. (a) No buy-here-pay-here dealer, as that term is*  
6 *defined in Section 241 of the Vehicle Code, shall sell or lease a*  
7 *used vehicle, as defined in Section 665 of the Vehicle Code, at*  
8 *retail price without giving the buyer or lessee a written warranty*  
9 *that shall have a minimum duration of at least 30 days from the*  
10 *date of delivery or when the odometer has registered 1,000 miles*  
11 *from what is shown on the contract, whichever occurs first.*

12 *(b) The written warranty shall provide that if the buyer or lessee*  
13 *notifies the buy-here-pay-here dealer that the vehicle does not*  
14 *conform to the written warranty, the buy-here-pay-here dealer*  
15 *shall either repair the vehicle to conform to the written warranty,*  
16 *reimburse the buyer or lessee for the reasonable cost of repairs,*  
17 *or cancel the sale or lease contract and provide the buyer or lessee*  
18 *with a full refund, less a reasonable amount for any damage*  
19 *sustained by the vehicle after the sale or lease, excepting damage*  
20 *caused by any nonconformity with the written warranty.*

21 *(c) The written warranty shall provide that the*  
22 *buy-here-pay-here dealer shall pay 100 percent of the cost of labor*  
23 *and parts for any repairs pursuant to the warranty, and may not*  
24 *charge the buyer or lessee for the cost of repairs or for inspecting*  
25 *the vehicle, tearing down the engine or transmission or other part,*  
26 *or for any deductible. Any person performing repairs pursuant to*  
27 *this subdivision shall comply with the requirements of an*  
28 *automotive repair dealer pursuant to Chapter 20.3 (commencing*  
29 *with Section 9880) of Division 3 of the Business and Professions*  
30 *Code.*

31 *(d) The buy-here-pay-here dealer or its agent may elect to refund*  
32 *the buyer or lessee a full refund, less a reasonable amount for any*  
33 *damage sustained by the vehicle after the sale or lease, excepting*  
34 *damage caused by any nonconformity with the written warranty,*  
35 *rather than performing a repair. In the event that the*  
36 *buy-here-pay-here dealer cancels the sale or lease, all of the*  
37 *following shall apply:*

38 *(1) The buy-here-pay-here dealer shall given written notice to*  
39 *the buyer or lessee of the election to cancel the sale or lease by*  
40 *personal delivery or first-class mail.*

1 (2) *The buyer or lessee shall return the vehicle in substantially*  
2 *the same condition as when it was delivered by the*  
3 *buy-here-pay-here dealer, reasonable wear and tear and any*  
4 *nonconformity with the written warranty excepted.*

5 (3) *The buy-here-pay-here dealer shall provide the buyer or*  
6 *lessee with a receipt stating all of the following:*

7 (A) *The date the vehicle was returned to the buy-here-pay-here*  
8 *dealer.*

9 (B) *The vehicle identification number.*

10 (C) *The make, year, and model of the vehicle.*

11 (D) *The odometer reading at the time that the vehicle was*  
12 *returned to the buy-here-pay-here dealer.*

13 (E) *A statement that the buy-here-pay-here dealer has canceled*  
14 *the sale or lease.*

15 (F) *The amount of the buyer's or lessee's refund.*

16 (4) *The buy-here-pay-here dealer shall not treat the return of*  
17 *the vehicle pursuant to the contract cancellation provisions of this*  
18 *subdivision as a repossession.*

19 (5) *The buyer or lessee shall execute the documents necessary*  
20 *to transfer any interest in the vehicle to the buy-here-pay-here*  
21 *dealer or to remove the buyer or lessee from any registration or*  
22 *title documents.*

23 (6) *The buy-here-pay-here dealer shall refund to the buyer or*  
24 *lessee, no later than the day after the day on which the buyer or*  
25 *lessee returns the vehicle and the notice of election to cancel is*  
26 *given to the buyer or lessee, all amounts paid under the sale or*  
27 *lease agreement, less a reasonable amount for property damage*  
28 *sustained by the vehicle after the sale or lease, excepting damage*  
29 *caused by any nonconformity with the warranty.*

30 (e) *The written warranty shall cover at least the following*  
31 *components:*

32 (1) *Engine, including all internally lubricated parts.*

33 (2) *Transmission and transaxle.*

34 (3) *Front and rear wheel drive components.*

35 (4) *Engine cooling system.*

36 (5) *Alternator, generator, starter, and ignition system, not*  
37 *including the battery.*

38 (6) *Braking system.*

39 (7) *Front and rear suspension systems.*

40 (8) *Steering system and components.*

1 (9) Seatbelts.

2 (10) Inflatable restraint systems installed on the vehicle as  
3 originally manufactured.

4 (11) Catalytic converter and other emissions components  
5 necessary for the vehicle to pass a California emissions test.

6 (12) Heater.

7 (13) Seals and gaskets on components described in this  
8 subdivision.

9 (14) Electrical, electronic, and computer components, to the  
10 extent that those components substantially affect the functionality  
11 of other components described in this subdivision.

12 (f) Any Used Car Buyer's Guide displayed on a vehicle offered  
13 for sale or lease by a buy-here-pay-here dealer shall list each of  
14 the above systems and components and shall specify that the  
15 buy-here-pay-here dealer will pay 100 percent of the cost of parts  
16 and labor for repairs covered by the warranty.

17 (g) The buy-here-pay-here dealer shall make the repair or  
18 provide a refund notwithstanding the fact that the warranty period  
19 has expired if the buyer or lessee notified the buy-here-pay-here  
20 dealer of the failure of a covered system or part within the warranty  
21 period.

22 (h) This section shall not apply to any defect or nonconformity  
23 caused by the unauthorized or unreasonable use of the vehicle  
24 following the sale, or to any property damage not to the vehicle  
25 arising out of the failure of a covered part.

26 (i) In any proceeding in which the exclusion of coverage  
27 permitted by subdivision (h) or the deduction allowed by paragraph  
28 (6) of subdivision (d) is an issue, the buy-here-pay-here dealer  
29 shall have the burden of proof.

30 (j) A buy-here-pay-here dealer shall not sell or lease any vehicle  
31 unless the vehicle meets all of the equipment requirements of  
32 Division 12 (commencing with Section 24000) of the Vehicle Code.

33 (k) Any agreement between a buy-here-pay-here dealer and a  
34 buyer or lessee that disclaims, limits, or waives the rights set forth  
35 in this section shall be void as contrary to public policy.

36 (l) If a buy-here-pay-here dealer fails to give a buyer a written  
37 warranty pursuant to this section, the buy-here-pay-here dealer  
38 shall be deemed to have provided the warranty as a matter of law.

39 ~~SEC. 3. Section 2981 of the Civil Code is amended to read:~~

1     ~~2981. As used in this chapter, unless the context otherwise~~  
2 ~~requires:~~  
3     ~~(a) “Conditional sale contract” means:~~  
4         ~~(1) A contract for the sale of a motor vehicle between a buyer~~  
5 ~~and a seller, with or without accessories, under which possession~~  
6 ~~is delivered to the buyer and either of the following:~~  
7             ~~(A) The title vests in the buyer thereafter only upon the payment~~  
8 ~~of all or a part of the price, or the performance of any other~~  
9 ~~condition.~~  
10            ~~(B) A lien on the property is to vest in the seller as security for~~  
11 ~~the payment of part or all of the price, or for the performance of~~  
12 ~~any other condition.~~  
13         ~~(2) A contract for the bailment of a motor vehicle between a~~  
14 ~~buyer and a seller, with or without accessories, by which the bailee~~  
15 ~~or lessee agrees to pay as compensation for use a sum substantially~~  
16 ~~equivalent to or in excess of the aggregate value of the vehicle and~~  
17 ~~its accessories, if any, at the time the contract is executed, and by~~  
18 ~~which it is agreed that the bailee or lessee will become, or for no~~  
19 ~~other or for a nominal consideration has the option of becoming,~~  
20 ~~the owner of the vehicle upon full compliance with the terms of~~  
21 ~~the contract.~~  
22         ~~(b) “Seller” means a person engaged in the business of selling~~  
23 ~~or leasing motor vehicles under conditional sale contracts.~~  
24         ~~(c) “Buyer” means the person who buys or hires a motor vehicle~~  
25 ~~under a conditional sale contract.~~  
26         ~~(d) “Person” includes an individual, company, firm, association,~~  
27 ~~partnership, trust, corporation, limited liability company, or other~~  
28 ~~legal entity.~~  
29         ~~(e) “Cash price” means the amount for which the seller would~~  
30 ~~sell and transfer to the buyer unqualified title to the motor vehicle~~  
31 ~~described in the conditional sale contract, if the property were sold~~  
32 ~~for cash at the seller’s place of business on the date the contract~~  
33 ~~is executed, and shall include taxes to the extent imposed on the~~  
34 ~~cash sale and the cash price of accessories or services related to~~  
35 ~~the sale, including, but not limited to, delivery, installation,~~  
36 ~~alterations, modifications, improvements, document preparation~~  
37 ~~fees, a service contract, a vehicle contract cancellation option~~  
38 ~~agreement, and payment of a prior credit or lease balance remaining~~  
39 ~~on property being traded in.~~

1 (f) “Downpayment” means a payment that the buyer pays or  
2 agrees to pay to the seller in cash or property value or money’s  
3 worth at or prior to delivery by the seller to the buyer of the motor  
4 vehicle described in the conditional sale contract. The term shall  
5 also include the amount of any portion of the downpayment, the  
6 payment of which is deferred until not later than the due date of  
7 the second otherwise scheduled payment, if the amount of the  
8 deferred downpayment is not subject to a finance charge. The term  
9 does not include any administrative finance charge charged,  
10 received, or collected by the seller as provided in this chapter.

11 (g) “Amount financed” means the amount required to be  
12 disclosed pursuant to paragraph (8) of subdivision (a) of Section  
13 2982.

14 (h) “Unpaid balance” means the difference between subdivision  
15 (e) and subdivision (f), plus all insurance premiums (except for  
16 credit life or disability insurance when the amount thereof is  
17 included in the finance charge), which are included in the contract  
18 balance, and the total amount paid or to be paid as follows:

19 (1) To a public officer in connection with the transaction.

20 (2) For license, certificate of title, and registration fees imposed  
21 by law, and the amount of the state fee for issuance of a certificate  
22 of compliance or certificate of waiver pursuant to Section 9889.56  
23 of the Business and Professions Code.

24 (i) “Finance charge” has the meaning set forth for that term in  
25 Section 226.4 of Regulation Z. The term shall not include  
26 delinquency charges or collection costs and fees as provided by  
27 subdivision (k) of Section 2982, extension or deferral agreement  
28 charges as provided by Section 2982.3, or amounts for insurance,  
29 repairs to or preservation of the motor vehicle, or preservation of  
30 the security interest therein advanced by the holder under the terms  
31 of the contract.

32 (j) “Total of payments” means the amount required to be  
33 disclosed pursuant to subdivision (h) of Section 226.18 of  
34 Regulation Z. The term includes any portion of the downpayment  
35 that is deferred until not later than the second otherwise scheduled  
36 payment and that is not subject to a finance charge. The term shall  
37 not include amounts for which the buyer may later become  
38 obligated under the terms of the contract in connection with  
39 insurance, repairs to or preservation of the motor vehicle,  
40 preservation of the security interest therein, or otherwise.

1 (k) “Motor vehicle” means a vehicle required to be registered  
2 under the Vehicle Code that is bought for use primarily for personal  
3 or family purposes, and does not mean any vehicle that is bought  
4 for use primarily for business or commercial purposes or a  
5 mobilehome, as defined in Section 18008 of the Health and Safety  
6 Code that is sold on or after July 1, 1981. “Motor vehicle” does  
7 not include any trailer that is sold in conjunction with a vessel and  
8 that comes within the definition of “goods” under Section 1802.1.

9 (l) “Purchase order” means a sales order, car reservation,  
10 statement of transaction, or any other such instrument used in the  
11 conditional sale of a motor vehicle pending execution of a  
12 conditional sale contract. The purchase order shall conform to the  
13 disclosure requirements of subdivision (a) of Section 2982 and  
14 Section 2984.1, and subdivision (m) of Section 2982 shall apply.

15 (m) “Regulation Z” means a rule, regulation, or interpretation  
16 promulgated by the Board of Governors of the Federal Reserve  
17 System (“Board”) under the federal Truth in Lending Act, as  
18 amended (15 U.S.C. 1601, et seq.), and an interpretation or  
19 approval issued by an official or employee of the Federal Reserve  
20 System duly authorized by the board under the Truth in Lending  
21 Act, as amended, to issue the interpretations or approvals.

22 (n) “Simple-interest basis” means the determination of a finance  
23 charge, other than an administrative finance charge, by applying  
24 a constant rate to the unpaid balance as it changes from time to  
25 time either:

26 (1) Calculated on the basis of a 365-day year and actual days  
27 elapsed (although the seller may, but need not, adjust its  
28 calculations to account for leap years); reference in this chapter to  
29 the “365-day basis” shall mean this method of determining the  
30 finance charge, or

31 (2) For contracts entered into prior to January 1, 1988, calculated  
32 on the basis of a 360-day year consisting of 12 months of 30 days  
33 each and on the assumption that all payments will be received by  
34 the seller on their respective due dates; reference in this chapter  
35 to the “360-day basis” shall mean this method of determining the  
36 finance charge.

37 (o) “Precomputed basis” means the determination of a finance  
38 charge by multiplying the original unpaid balance of the contract  
39 by a rate and multiplying that product by the number of payment

1 periods elapsing between the date of the contract and the date of  
 2 the last scheduled payment.

3 ~~(p) “Service contract” means “vehicle service contract” as~~  
 4 ~~defined in subdivision (c) of Section 12800 of the Insurance Code.~~

5 ~~(q) “Surface protection product” means the following products~~  
 6 ~~installed by the seller after the motor vehicle is sold:~~

7 ~~(1) Undercoating.~~  
 8 ~~(2) Rustproofing.~~  
 9 ~~(3) Chemical or film paint sealant or protectant.~~  
 10 ~~(4) Chemical sealant or stain inhibitor for carpet and fabric.~~

11 ~~(r) “Theft deterrent device” means the following devices~~  
 12 ~~installed by the seller after the motor vehicle is sold:~~

13 ~~(1) A vehicle alarm system.~~  
 14 ~~(2) A window etch product.~~  
 15 ~~(3) A body part marking product.~~  
 16 ~~(4) A steering lock.~~  
 17 ~~(5) A pedal or ignition lock.~~  
 18 ~~(6) A fuel or ignition kill switch.~~

19 ~~(s) “Buy-here-pay-here dealer” means a seller who does both~~  
 20 ~~of the following:~~

21 ~~(1) Enters into conditional sale contracts, within the meaning~~  
 22 ~~of subdivision (a), or lease contracts, within the meaning of Section~~  
 23 ~~2985.7.~~

24 ~~(2) Does not routinely assign the contracts described in~~  
 25 ~~subdivision (a) to an unaffiliated third-party finance or leasing~~  
 26 ~~source.~~

27 ~~SEC. 4.~~

28 *SEC. 3.* Section 2983.35 is added to the Civil Code, to read:

29 2983.35. (a) After a sale of a vehicle under this chapter, a  
 30 buy-here-pay-here dealer, *as defined in Section 241 of the Vehicle*  
 31 *Code*, shall not do any of the following:

32 ~~(1) Track the vehicle with Utilize electronic tracking technology,~~  
 33 ~~technology to obtain or record the location of the vehicle, unless~~  
 34 ~~the buyer is expressly made aware of the existence and use of the~~  
 35 ~~tracking device by the buy-here-pay-here dealer, the buyer’s~~  
 36 ~~consent, as required under subdivision (b) of Section 637.7 of the~~  
 37 ~~Penal Code, written consent is obtained in writing, and either~~  
 38 ~~subparagraph (A) or (B) apply:~~

39 ~~(A) The location of the vehicle is used solely to verify and~~  
 40 ~~maintain the operational status of the tracking technology, to~~

1 *repossess the vehicle, or to locate the vehicle to service the loan*  
2 *or keep the loan current.*

3 *(B) The electronic tracking technology is used solely for any*  
4 *optional service to the consumer and all of the following conditions*  
5 *are met:*

6 *(i) The use of electronic tracking technology is disclosed by the*  
7 *buy-here-pay-here dealer to the buyer.*

8 *(ii) The agreement to utilize electronic tracking technology for*  
9 *the optional service is separate from the purchase and sale*  
10 *agreement, is not a condition of the purchase or sale agreement*  
11 *for the vehicle, and is executed after the completion of the purchase*  
12 *or sale agreement for the vehicle.*

13 *(iii) The buyer is permitted to cancel the optional service at any*  
14 *point in the future without affecting the sale of the vehicle, and is*  
15 *informed of his or her ability to do so.*

16 (2) Disable the vehicle by using ~~ignition-override starter~~  
17 *interrupt* technology, unless the buy-here-pay-here dealer complies  
18 ~~with both~~ all of the following provisions:

19 (A) Notifies the buyer in writing at the time of the sale that the  
20 vehicle is equipped with ~~ignition-override starter interrupt~~  
21 technology, which the buy-here-pay-here dealer can use to shut  
22 down the vehicle remotely.

23 ~~(B) The ignition-override technology on the vehicle provides a~~  
24 ~~warning to the driver of the vehicle that the vehicle will become~~  
25 ~~inoperable. That warning shall begin no less than 120 hours before~~  
26 ~~the vehicle is disabled by the ignition-override technology, and~~  
27 ~~shall be provided for a length of no less than 20 seconds every~~  
28 ~~time the vehicle is started within that 120-hour period.~~

29 (B) *The written disclosure provided to the consumer at the time*  
30 *of sale informs the consumer that a warning will be provided no*  
31 *less than 48 hours before the use of the starter interrupt technology*  
32 *to shut down the vehicle remotely and discloses the manner and*  
33 *method in which that warning will occur. The dealer shall offer*  
34 *the consumer a choice of warning methods, including warning*  
35 *from the device, telephone call, e-mail, or text message, if*  
36 *available, provided that the warning method does not violate*  
37 *applicable state or federal law.*

38 (C) *In the event of an emergency, the consumer will be provided*  
39 *with the ability to start a dealer-disabled vehicle for no less than*  
40 *24 hours after the vehicle's initial disablement.*

1 (b) A buy-here-pay-here dealer shall not require the buyer to  
2 make payments to the seller in person. For purposes of this  
3 subdivision, “payments” does not include the downpayment.

4 (c) A violation of this section is a misdemeanor punishable by  
5 a fine not exceeding one thousand dollars (\$1,000).

6 *SEC. 4. Section 241 is added to the Vehicle Code, to read:*

7 *241. A “buy-here-pay-here” dealer is a dealer, as defined in*  
8 *Section 285, who is not otherwise expressly excluded by Section*  
9 *241.1, and who does all of the following:*

10 (a) *Enters into conditional sale contracts, within the meaning*  
11 *of subdivision (a) of Section 2981 of the Civil Code, and subject*  
12 *to the provisions of Chapter 2b (commencing with Section 2981)*  
13 *of Title 14 of Part 4 of Division 3 of the Civil Code, or lease*  
14 *contracts, within the meaning of Section 2985.7 of the Civil Code,*  
15 *and subject to the provisions of Chapter 2d (commencing with*  
16 *Section 2985.7) of Title 14 of Part 4 of Division 3 of the Civil Code.*

17 (b) *Assigns less than 90 percent of all unrescinded conditional*  
18 *sale contracts and lease contracts to unaffiliated third-party*  
19 *finance or leasing sources within 60 days of the consummation of*  
20 *those contracts.*

21 *SEC. 5. Section 241.1 is added to the Vehicle Code, to read:*

22 *241.1. The term “buy-here-pay-here” dealer does not include*  
23 *any of the following:*

24 (a) *A lessor who primarily leases vehicles that are two model*  
25 *years old or newer.*

26 (b) *A dealer that does both of the following:*

27 (1) *Certifies 100 percent of used vehicle inventory offered for*  
28 *sale at retail price pursuant to Section 11713.18.*

29 (2) *Maintains an onsite service and repair facility that is*  
30 *licensed by the Bureau of Automotive Repair and employs a*  
31 *minimum of five master automobile technicians that are certified*  
32 *by the National Institute for Automotive Service Excellence.*

33 ~~*SEC. 5.*~~

34 *SEC. 6. No reimbursement is required by this act pursuant to*  
35 *Section 6 of Article XIII B of the California Constitution because*  
36 *the only costs that may be incurred by a local agency or school*  
37 *district will be incurred because this act creates a new crime or*  
38 *infraction, eliminates a crime or infraction, or changes the penalty*  
39 *for a crime or infraction, within the meaning of Section 17556 of*  
40 *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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