

Introduced by Senator VargasFebruary 1, 2012

An act to amend Section 11713.26 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 990, as introduced, Vargas. Vehicle history report.

(1) Existing law, as of July 1, 2012, prohibits a dealer from displaying or offering for sale at retail a used vehicle unless the dealer first obtains a vehicle history report from the National Motor Vehicle Title Information System (NMVTIS). If the NMVTIS report indicates that the vehicle is or has been a junk or salvage automobile, or the vehicle has been reported as such by a junk or a salvage yard, or an insurance carrier, or the certificate of title contains a brand, a dealer is required to post a specified disclosure and provide the retail purchaser with a copy of the report upon request prior to sale. A violation of the Vehicle Code is a crime.

This bill would revise that prohibition to authorize a dealer to also obtain the vehicle history report from a commercial data provider, as defined, and would make conforming changes. The bill would impose a state-mandated local program by changing the definition of a crime.

(2) 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 11713.26 of the Vehicle Code is amended
2 to read:

3 11713.26. (a) A dealer shall not display or offer for sale at
4 retail a used vehicle, as defined in Section 665 and subject to
5 registration under this code, unless the dealer first obtains a
6 ~~NMVTIS~~ vehicle history report from a *NMVTIS data provider*
7 *or a commercial data provider* for the vehicle identification number
8 of the vehicle.

9 (b) If a ~~NMVTIS~~ vehicle history report for a used vehicle
10 indicates that the vehicle is or has been a junk automobile or a
11 salvage automobile or the vehicle has been reported as a junk
12 automobile or a salvage automobile by a junk yard, salvage yard,
13 or insurance carrier pursuant to Section 30504 of Title 49 of the
14 United States Code, or the certificate of title contains a brand, a
15 dealer shall do both of the following:

16 (1) Post the following disclosure on the vehicle while it is
17 displayed for sale at retail in at least 14-point bold black type,
18 except for the title “Warning” which shall be in at least 18-point
19 bold black type, on at least a 4 x 5.5 inch red background in close
20 proximity to the Federal Trade Commission’s Buyer’s Guide:

21

22 “WARNING

23 According to a vehicle history report issued by the National
24 Motor Vehicle Title Information System (NMVTIS) *or a*
25 *commercial data provider*, this vehicle has been reported as a
26 total-loss vehicle by an insurance company, has been reported into
27 *NMVTIS or a commercial data provider* by a junk or salvage
28 reporting entity, or has a title brand which may materially affect
29 the value, safety, and/or condition of the vehicle. Because of its
30 history as a junk, salvage, or title-branded vehicle, the
31 manufacturer’s warranty or service contract on this vehicle may
32 be affected. Ask the dealer to see a copy of the ~~NMVTIS~~ vehicle
33 history report. You may independently obtain the report by
34 checking NMVTIS online at www.vehiclehistory.gov *or by*
35 *checking the online Internet Web site of a commercial data*
36 *provider.”*

37

1 (2) Provide the retail purchaser with a copy of the ~~NMVTIS~~
2 vehicle history report upon request prior to sale.

3 (c) Subdivisions (a) and (b) do not apply to a used vehicle for
4 which NMVTIS *or a commercial data provider* does not have a
5 record if the dealer attempts to obtain a ~~NMVTIS~~ vehicle history
6 report for the vehicle.

7 (d) As used in this section the following terms have the
8 following meanings:

9 (1) “*Commercial data provider*” means a private entity that
10 provides vehicle history information and obtains data from all 50
11 states of the United States and the District of Columbia.

12 ~~(1)~~

13 (2) “NMVTIS” means the National Motor Vehicle Title
14 Information System established pursuant to Section 30501 et seq.
15 of Title 49 of the United States Code.

16 ~~(2) “NMVTIS vehicle~~

17 (3) “*Vehicle history report*” means a report obtained by an
18 NMVTIS data provider *or a commercial data provider* that
19 contains *the following information*:

20 (A) The date of the report.

21 (B) Any disclaimer required by the operator of NMVTIS.

22 (C) If available from NMVTIS *or a commercial data provider*,
23 information establishing the following:

24 (i) Whether the vehicle is titled in a particular state.

25 (ii) Whether the title to the vehicle was branded by a state.

26 (iii) The validity and status of a document purporting to be a
27 certificate of title for the vehicle.

28 (iv) Whether the vehicle is or has been a junk automobile or a
29 salvage automobile.

30 (v) The odometer mileage disclosure required pursuant to
31 Section 32705 of Title 49 of the United States Code for that vehicle
32 on the date the certificate of title for that vehicle was issued and
33 any later mileage information.

34 (vi) Whether the vehicle has been reported as a junk automobile
35 or a salvage automobile pursuant to Section 30504 of Title 49 of
36 the United States Code.

37 ~~(3)~~

38 (4) “Junk automobile,” “operator,” and “salvage automobile”
39 shall have the same meanings as defined in Section 25.52 of Title
40 28 of the Code of Federal Regulations.

1 ~~(4)~~

2 (5) “NMVTIS data provider” means a person authorized by the
3 NMVTIS operator as an access portal provider for NMVTIS.

4 ~~(5)~~

5 (6) “NMVTIS operator” means the individual or entity
6 authorized or designated as the operator of NMVTIS pursuant to
7 subdivision (b) of Section 30502 of Title 49 of the United States
8 Code, or the office designated by the United States Attorney
9 General, if there is no authorized or designated individual or entity.

10 (e) Nothing in this section shall prohibit a NMVTIS data
11 provider *or a commercial data provider* from including, in a
12 ~~NMVTIS~~ vehicle history report containing the information required
13 by paragraph ~~(2)~~ (3) of subdivision (d), additional vehicle history
14 information obtained from resources other than NMVTIS *or the*
15 *commercial data provider*.

16 (f) This section shall not create any legal duty upon the dealer
17 related to the accuracy, errors, or omissions contained in a
18 ~~NMVTIS~~ vehicle history report that is obtained from a NMVTIS
19 data provider, *or, with respect to the information required by*
20 *paragraph (3) of subdivision (d), a commercial data provider, or*
21 *any legal duty to provide information added to NMVTIS or a*
22 *commercial data provider’s vehicle history database* after the
23 dealer obtained the ~~NMVTIS~~ vehicle history report pursuant to
24 subdivision (a).

25 (g) (1) In the event that all NMVTIS data providers cease to
26 make ~~NMVTIS~~ vehicle history reports available to the public, this
27 section shall become inoperative.

28 (2) In the event that all NMVTIS data providers cease to make
29 ~~NMVTIS~~ vehicle history reports available to the public, it is the
30 intent of the Legislature that the United States Department of
31 Justice notify the Legislature and the department.

32 (h) This section does not apply to the sale of a recreational
33 vehicle, a motorcycle, or an off-highway motor vehicle subject to
34 identification under Section 38010.

35 (i) This section shall become operative on July 1, 2012.

36 SEC. 2. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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