

AMENDED IN SENATE JULY 10, 2013

AMENDED IN SENATE JUNE 11, 2013

AMENDED IN ASSEMBLY MAY 13, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 501

Introduced by Assembly Member Nazarian

February 20, 2013

An act to amend Section 25250.51 of the Health and Safety Code, to amend Section 42950 of the Public Resources Code, and to amend Sections 12200, 12204, and 34601 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 501, as amended, Nazarian. Vehicles.

(1) Existing law prohibits the sale of motor brake friction materials containing specified constituents in excess of specified concentrations. Existing law, however, until December 31, 2023, permits motor vehicle manufacturers and distributors, wholesalers, or retailers to sell brake friction materials that are not certified as compliant with that provision solely for the purpose of depletion of inventories.

This bill would additionally permit motor vehicle dealers to continue to sell or offer for sale brake friction material not certified as compliant, as specified, if the brake friction material was installed before the vehicle was acquired by the dealer.

(2) Existing law defines tire broker to mean a person that arranges for the shipment of used or waste tires to or from a site located within

the state, or through the state, as defined. Existing law requires a tire broker to submit periodic information to the department on the used or waste tires arranged to be shipped to the tire broker to, from, or through the state.

This bill would exclude *a vehicle dealer, as defined*, from the definition of a tire broker ~~a tire retailer primarily engaged in the retail sale, service, and installation of tires on customer vehicles, or a vehicle dealer, as defined.~~

(3) ~~Existing law establishes the Consumer Motor Vehicle Recovery Corporation (recovery corporation) to provide payments to consumers on eligible claims, including, but not limited to, a claim based on a vehicle dealer or lessor-retailer's failure to remit license or registration fees or failure to pay proceeds of a consignment sale, subject to certain requirements and limitations.~~ Existing law permits a consumer to file an application with the recovery corporation for the payment of the consumer's eligible claim if a dealer or lessor-retailer against whom the claim is asserted has ceased selling and leasing motor vehicles to the general public or has become subject to a petition in bankruptcy. ~~Existing law, for purposes of specified provisions, defines "eligible claim" to mean an unsatisfied claim for economic loss, that is not barred by the statutes of limitation and that accrues, as specified, to, among other things, remit license or registration fees received or contractually obligated to be paid from a consumer to the department, or pay the amount specified in a consignment agreement to a consumer after the sale of a consigned vehicle.~~

This bill would expand the definition of "eligible claim," *for purposes of those provisions*, to include ~~providing a claim based on the failure of a vehicle dealer or lessor-retailer to provide~~ a consumer who purchased a vehicle from the dealer or lessor-retailer with good title to the vehicle, free from any security interest or other lien, encumbrance, or claim, ~~unless otherwise clearly and conspicuously provided for by the written sale agreement, and to include paying as specified, or pay~~ to a third party any amount received from, or contractually obligated to be paid by, a consumer for insurance, service contracts, or goods or services purchased through the dealer or lessor-retailer and to be provided by the third party.

(4) ~~Existing law permits a consumer to file an application with the recovery corporation for the payment of the consumer's eligible claim if a dealer or lessor-retailer against whom the claim is asserted has~~

~~ceased selling and leasing motor vehicles to the general public or has become subject to a petition in bankruptcy.~~

~~This bill would require, *require the consumer to provide specified information* if the eligible claim is based on the failure to provide good title, the application to be accompanied by a statement from the legal owner or other claimant of the amount, if any, that he or she received from the dealer or lessor-retailer. The bill would require the eligible claim to be limited to the remaining dollar amount necessary to discharge the valid security interest, lien, encumbrance, or other clouding title to the vehicle.~~

~~This bill would require, if the eligible claim is based on the failure to pay third parties for insurance, service contracts, or goods or services, the application to be accompanied by a statement from the third party of the amount, if any, that he or she received from the dealer or lessor-retailer. The bill would require that the eligible claim be limited to the difference between the dollar amount the consumer paid or was contractually obligated to pay to the dealer or lessor-retailer for the insurance, service contracts, or goods or services purchased through the dealer or lessor-retailer and to be provided by the third party and the dollar amount actually received by the third party from the dealer or lessor-retailer for the insurance, service contracts, or goods or services: *title or the failure to pay 3rd parties for insurance, service contracts, or goods or services.*~~

~~(5)~~

~~(4) Existing law excludes from the definition of commercial motor vehicle, for purposes of certain provisions, specified trucks and truck tractors with a gross vehicle weight rating of less than 26,001 pounds, when used solely to tow specified trailers. Existing law prohibits a motor carrier of property from operating a commercial motor vehicle on any public highway in this state, unless it has, among other things, registered with the department its carrier identification number, as specified, and holds a valid motor carrier permit issued to that motor carrier by the department.~~

~~This bill would additionally exclude from the definition of commercial motor vehicle specified trucks and truck tractors, with a gross vehicle rating of less than 26,0001 pounds, operated solely to tow specified trailers, including trailers designed to transport watercraft. This bill would also exclude from the definition of commercial motor vehicle specified truck and truck tractors, with a gross vehicle weight rating of less than 16,001 pounds, operated singly in noncommercial use.~~

(6)

(5) This bill would make other technical, nonsubstantive, conforming, and clarifying changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25250.51 of the Health and Safety Code
2 is amended to read:

3 25250.51. (a) On and after January 1, 2014, any motor vehicle
4 brake friction materials containing any of the following constituents
5 in an amount that exceeds the following concentrations shall not
6 be sold in this state:

- 7 (1) Cadmium and its compounds: 0.01 percent by weight.
- 8 (2) Chromium (VI)-salts: 0.1 percent by weight.
- 9 (3) Lead and its compounds: 0.1 percent by weight.
- 10 (4) Mercury and its compounds: 0.1 percent by weight.
- 11 (5) Asbestiform fibers: 0.1 percent by weight.

12 (b) Motor vehicle manufacturers and distributors, wholesalers,
13 or retailers of replacement brake friction materials may continue
14 to sell or offer for sale brake friction materials not certified as
15 compliant with subdivision (a) solely for the purpose of depletion
16 of inventories until December 31, 2023.

17 (c) Notwithstanding subdivision (b), motor vehicle dealers may
18 continue to sell or offer for sale brake friction material not certified
19 as compliant with subdivision (a) if the brake friction material was
20 installed on a vehicle before the vehicle was acquired by the dealer.

21 SEC. 2. Section 42950 of the Public Resources Code is
22 amended to read:

23 42950. For purposes of this chapter, the following definitions
24 apply:

25 (a) “Agricultural purposes” means the use of waste tires as
26 bumpers on agricultural equipment or as a ballast to maintain
27 covers or structures at an agricultural site.

28 (b) (1) “Altered waste tire” means a waste tire that has been
29 baled, shredded, chopped, or split apart. “Altered waste tire” does
30 not mean crumb rubber.

31 (2) “Alteration” or “altering,” with reference to a waste tire,
32 means an action that produces an altered waste tire.

1 (c) “Applicant” means a person seeking to register as a waste
2 tire hauler.

3 (d) “Baled tire” means either a whole or an altered tire that has
4 been compressed and then secured with a binding material for the
5 purpose of reducing its volume.

6 (e) “Common carrier” means a “common carrier,” as defined
7 in Section 211 of the Public Utilities Code.

8 (f) “Crumb rubber” means rubber granules derived from a waste
9 tire that are less than or one-quarter inch or six millimeters in size.

10 (g) “Repairable tire” means a worn, damaged, or defective tire
11 that is retreadable, recappable, or regrooveable, or that can be
12 otherwise repaired to return the tire to use as a vehicle tire, and
13 that meets the applicable requirements of the Vehicle Code and
14 Title 13 of the California Code of Regulations.

15 (h) “Scrap tire” means a worn, damaged, or defective tire that
16 is not a repairable tire.

17 (i) “Tire broker” means a person that arranges for the shipment
18 of used or waste tires to or from a site located within the state, or
19 through the state, as that term may be further defined by the
20 department by regulation. “Tire broker” does not include a tire
21 retailer primarily engaged in the retail sale, service, and installation
22 of tires on customer vehicles, or a vehicle dealer, as defined in
23 Section 285 of the Vehicle Code.

24 (j) “Tire derived product” means material that meets both of
25 the following requirements:

26 (1) Is derived from a process using waste tires or waste tire
27 equivalents as a feedstock. A process using waste tires or waste
28 tire equivalents includes, but is not limited to, shredding, crumbing,
29 or chipping.

30 (2) Has been sold and removed from the processing facility.

31 (k) “Used tire” means a tire that meets both of the following
32 requirements:

33 (1) The tire is no longer mounted on a vehicle but is still suitable
34 for use as a vehicle tire.

35 (2) The tire meets the applicable requirements of the Vehicle
36 Code and of Title 13 of the California Code of Regulations.

37 (l) “Waste tire” means a tire that is no longer mounted on a
38 vehicle and is no longer suitable for use as a vehicle tire due to
39 wear, damage, or deviation from the manufacturer’s original
40 specifications. A waste tire includes a repairable tire, scrap tire,

1 and altered waste tire, but does not include a tire derived product,
2 crumb rubber, or a used tire.

3 (m) “Waste tire generator” or “waste tire generating business”
4 means a person as defined by Section 40170 whose act or process
5 produces waste tires as defined in Section 42807, causes a waste
6 tire hauler to transport those waste tires, or otherwise causes waste
7 tires to become subject to regulation. “Waste tire generator” or
8 “waste tire generating business” does not include a person who
9 transports 10 or fewer waste tires at any one time.

10 SEC. 3. Section 12200 of the Vehicle Code is amended to read:
11 12200. The following definitions apply to this chapter:

12 (a) “Application” means an application to the recovery
13 corporation for the payment of an eligible claim from the recovery
14 fund that is filed with the recovery corporation after January 1,
15 2009.

16 (b) “Consumer” means a person who either (1) purchased or
17 leased, or became obligated to purchase or lease, a motor vehicle
18 to be used primarily for personal, family, or household purposes
19 from a dealer or lessor-retailer licensed under this code, or (2)
20 consigned for sale a motor vehicle that was used primarily for
21 personal, family, or household purposes to a dealer licensed under
22 this code.

23 (c) “Eligible claim” means an unsatisfied claim for economic
24 loss, not barred by the statutes of limitation, that accrues after July
25 1, 2008, as a result of the failure of a dealer licensed under this
26 code, or if applicable, a lessor-retailer licensed under this code, to
27 do any of the following:

28 (1) Remit license or registration fees received or contractually
29 obligated to be paid from a consumer to the department.

30 (2) Pay to the legal owner of a vehicle transferred as a trade-in
31 by a consumer to the dealer or lessor-retailer the amount necessary
32 to discharge the prior credit balance owed to the legal owner.

33 (3) Pay to the lessor registered in accordance with Section
34 4453.5 of a vehicle transferred as a trade-in by a consumer to the
35 dealer or lessor-retailer the amount the dealer or lessor-retailer
36 agreed to pay to the lessor.

37 (4) Pay the amount specified in a consignment agreement to a
38 consumer after the sale of a consigned vehicle.

39 (5) Provide a consumer who purchased a vehicle from the dealer
40 or lessor-retailer with good title to the vehicle, free from any

1 security interest or other lien, encumbrance, or claim, unless
2 otherwise clearly and conspicuously provided for by the written
3 sale agreement.

4 (6) Pay to a third party any amount received from, or
5 contractually obligated to be paid by, a consumer for insurance,
6 service contracts, or goods or services purchased through the dealer
7 or lessor-retailer and to be provided by the third party.

8 (d) "Participant" means a dealer licensed under this code or a
9 lessor-retailer licensed under this code.

10 (e) "Recovery corporation" means the Consumer Motor Vehicle
11 Recovery Corporation.

12 (f) "Recovery fund" means the consumer recovery fund
13 established by the recovery corporation pursuant to Section 12203
14 for the payment of eligible claims.

15 SEC. 4. Section 12204 of the Vehicle Code is amended to read:

16 12204. (a) A consumer may file an application with the
17 recovery corporation for the payment of the consumer's eligible
18 claim if a dealer or lessor-retailer against whom the claim is
19 asserted has ceased selling and leasing motor vehicles to the general
20 public or has become subject to a petition in bankruptcy.

21 (b) (1) The application shall be verified and shall set forth all
22 of the following information:

23 (A) The consumer's name, address, and telephone number.

24 (B) The amount of the eligible claim.

25 (C) A description of the circumstances demonstrating an eligible
26 claim.

27 (D) A statement indicating the consumer's belief that the dealer
28 or lessor-retailer has ceased selling and leasing motor vehicles to
29 the general public or has become subject to a petition in bankruptcy
30 and the reasons for this belief.

31 (E) A statement indicating what action, if any, the applicant has
32 taken to recover the amount of the eligible claim.

33 (F) A statement indicating that the consumer's application for
34 payment does not include any amount for which the consumer has
35 obtained recovery under the dealer's bond required by Section
36 11710.

37 (2) Nothing in this chapter shall be construed to require a
38 consumer to bring a civil action to obtain recovery, file a
39 bankruptcy claim, or file a crime report with a law enforcement

1 agency in order to obtain payment of an eligible claim submitted
2 to the recovery corporation.

3 (c) The application shall be accompanied by a copy of the
4 agreement between the consumer and the dealer or lessor-retailer,
5 unless the agreement is unnecessary to the recovery corporation's
6 determination of the validity of the claim.

7 (d) If the eligible claim is based on the failure to remit license
8 or registration fees, the application shall be accompanied by
9 evidence demonstrating that the consumer paid money or other
10 consideration for the fees, or became obligated to pay the fees,
11 and that the fees had not been remitted. The eligible claim shall
12 be limited to the dollar amount of the license or registration fees
13 not remitted and a late charge or penalty.

14 (e) If the eligible claim is based on the failure to pay the
15 proceeds of a consignment sale, the application shall be
16 accompanied by the consignment agreement, evidence that the
17 consigned vehicle was sold, and by the consumer's verified
18 statement that the consumer did not receive the portion of the
19 proceeds of the sale to which the consumer was entitled. The
20 eligible claim is limited to the dollar amount specified in a written
21 consignment agreement to be paid to the consignor.

22 (f) If the eligible claim is based on the failure to pay the legal
23 owner of the consumer's trade-in vehicle, the application shall be
24 accompanied by a statement from the legal owner of the amount,
25 if any, that he or she received from the dealer or lessor-retailer.
26 The eligible claim is limited to the dollar amount necessary to
27 discharge the credit balance owing on the trade-in vehicle.

28 (g) If the eligible claim is based on the failure to pay the lessor
29 of the consumer's trade-in vehicle, the application shall be
30 accompanied by a statement from the lessor of the amount, if any,
31 that the lessor received from the dealer or lessor-retailer. The
32 eligible claim is limited to the dollar amount necessary to pay the
33 lessor the total amount that the dealer or lessor-retailer agreed with
34 the consumer to pay the lessor.

35 (h) If the eligible claim is based on the failure to provide good
36 title, the application shall be accompanied by a statement from the
37 legal owner or other claimant of the amount, if any, that he or she
38 received from the dealer or lessor-retailer. The eligible claim is
39 limited to the remaining dollar amount necessary to discharge the

1 valid security interest, lien, encumbrance, or other claim clouding
2 title to the vehicle.

3 (i) If the eligible claim is based on the failure to pay third parties
4 for insurance, service contracts, or goods or services, the
5 application shall be accompanied by a statement from the third
6 party of the amount, if any, that he or she received from the dealer
7 or lessor-retailer. The eligible claim is limited to the difference
8 between the dollar amount the consumer paid or was contractually
9 obligated to pay to the dealer or lessor-retailer for the insurance,
10 service contracts, or goods or services purchased through the dealer
11 or lessor-retailer and to be provided by the third party and the
12 dollar amount actually received by the third party from the dealer
13 or lessor-retailer for the insurance, service contracts, or goods or
14 services.

15 (j) The recovery corporation may require reasonable additional
16 information designed to facilitate payment of eligible claims.

17 (k) (1) For claims that have accrued on or after July 1, 2008,
18 and before January 1, 2009, the application shall be filed within
19 18 months of the date upon which the dealer or lessor-retailer
20 ceased selling or leasing motor vehicles to the general public or
21 became subject to a petition in bankruptcy.

22 (2) For claims that have accrued on or after January 1, 2009,
23 the application shall be filed within one year of the date upon which
24 the dealer or lessor-retailer ceased selling or leasing motor vehicles
25 to the general public or became subject to a petition in bankruptcy.

26 SEC. 5. Section 34601 of the Vehicle Code is amended to read:

27 34601. (a) As used in this division, “motor carrier of property”
28 means any person who operates any commercial motor vehicle as
29 defined in subdivision (c). “Motor carrier of property” does not
30 include a household goods carrier, as defined in Section 5109 of
31 the Public Utilities Code, a household goods carrier transporting
32 used office, store, and institution furniture and fixtures under its
33 household goods carrier permit pursuant to Section 5137 of the
34 Public Utilities Code, persons providing only transportation of
35 passengers, or a passenger stage corporation transporting baggage
36 and express upon a passenger vehicle incidental to the
37 transportation of passengers.

38 (b) As used in this division, “for-hire motor carrier of property”
39 means a motor carrier of property as defined in subdivision (a)
40 who transports property for compensation.

1 (c) (1) As used in this division, except as provided in paragraph
2 (2), a “commercial motor vehicle” means any self-propelled vehicle
3 listed in subdivisions (a), (b), (f), (g), and (k) of Section 34500,
4 any motortruck of two or more axles that is more than 10,000
5 pounds gross vehicle weight rating, and any other motor vehicle
6 used to transport property for compensation.

7 (2) As used in this division, “commercial motor vehicle” does
8 not include any of the following:

9 (A) Vehicles identified in subdivision (f) of Section 34500, if
10 the gross vehicle weight rating of the towing vehicle is 10,000
11 pounds or less.

12 (B) Vehicles identified in subdivision (g) of Section 34500, if
13 the hazardous material transportation does not require the display
14 of placards under Section 27903, a license under Section 32000.5,
15 or a hazardous waste transporter registration under Section 25163
16 of the Health and Safety Code, and the vehicle is not operated in
17 commercial use.

18 (C) Vehicles operated by a household goods carrier, as defined
19 in Section 5109 of the Public Utilities Code, under the household
20 goods carrier permit pursuant to Section 5137 of that code.

21 (D) Vehicles operated by a household goods carrier to transport
22 used office, store, and institution furniture and fixtures under its
23 household goods carrier permit pursuant to Section 5137 of the
24 Public Utilities Code.

25 (E) Pickup trucks as defined in Section 471, if the conditions
26 in subparagraphs (A) and (B) are also met.

27 (F) Two-axle daily rental trucks with a gross vehicle weight
28 rating of less than 26,001 pounds, when operated in noncommercial
29 use.

30 (G) Motortrucks or two-axle truck tractors, with a gross vehicle
31 weight rating of less than 26,001 pounds, operated solely to tow
32 a camp trailer, trailer coach, fifth-wheel travel trailer, trailer
33 designed to transport watercraft, or utility trailer. Vehicle
34 combinations described in this subparagraph are not subject to
35 Section 27900, 34501.12, or 34507.5.

36 (H) Motortrucks or two-axle truck tractors, with a gross vehicle
37 weight rating of less than 16,001 pounds, operated singly in
38 noncommercial use.

39 (d) For purposes of this chapter, “private carrier” means a motor
40 carrier of property, who transports only his or her own property,

- 1 including, but not limited to, the delivery of goods sold by that
- 2 carrier.

O