

Assembly Bill No. 501

CHAPTER 392

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.

[Approved by Governor September 27, 2013. Filed with
Secretary of State September 27, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 501, 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, authorizes 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 authorize 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 tire retailer primarily engaged in the retail sale, service, and installation of new tires on customer vehicles, and a vehicle dealer, as defined, from the definition of a tire broker.

(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.

This bill would expand the definition of "eligible claim," for purposes of those provisions, to include 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, as specified, or pay to a 3rd 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 3rd party.

This bill would require the consumer to provide specified information if the eligible claim is based on the failure to provide good title or the failure to pay 3rd parties for insurance, service contracts, or goods or services.

(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 26,001 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.

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

(6) This bill would incorporate additional changes to Section 34601 of the Vehicle Code proposed by AB 529 that would become operative if this bill and AB 529 are both enacted and this bill is enacted last.

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

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

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

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

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

(c) Notwithstanding subdivision (b), motor vehicle dealers may continue to sell or offer for sale brake friction material not certified as compliant with

subdivision (a) if the brake friction material was installed on a vehicle before the vehicle was acquired by the dealer.

SEC. 2. Section 42950 of the Public Resources Code is amended to read: 42950. For purposes of this chapter, the following definitions apply:

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

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

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

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

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

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

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

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

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

(i) “Tire broker” means 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 that term may be further defined by the department by regulation. “Tire broker” does not include a tire retailer primarily engaged in the retail sale, service, and installation of new tires on customer vehicles, or a vehicle dealer, as defined in Section 285 of the Vehicle Code.

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

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

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

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

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

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

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

includes a repairable tire, scrap tire, and altered waste tire, but does not include a tire derived product, crumb rubber, or a used tire.

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

SEC. 3. Section 12200 of the Vehicle Code is amended to read:

12200. The following definitions apply to this chapter:

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

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

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

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

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

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

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

(5) 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.

(6) 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.

(d) “Participant” means a dealer licensed under this code or a lessor-retailer licensed under this code.

(e) “Recovery corporation” means the Consumer Motor Vehicle Recovery Corporation.

(f) “Recovery fund” means the consumer recovery fund established by the recovery corporation pursuant to Section 12203 for the payment of eligible claims.

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

12204. (a) A consumer may 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.

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

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

(B) The amount of the eligible claim.

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

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

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

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

(2) Nothing in this chapter shall be construed to require a consumer to bring a civil action to obtain recovery, file a bankruptcy claim, or file a crime report with a law enforcement agency in order to obtain payment of an eligible claim submitted to the recovery corporation.

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

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

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

(f) If the eligible claim is based on the failure to pay the legal owner of the consumer’s trade-in vehicle, the application shall be accompanied by a statement from the legal owner of the amount, if any, that he or she received

from the dealer or lessor-retailer. The eligible claim is limited to the dollar amount necessary to discharge the credit balance owing on the trade-in vehicle.

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

(h) If the eligible claim is based on the failure to provide good title, the application shall 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 eligible claim is limited to the remaining dollar amount necessary to discharge the valid security interest, lien, encumbrance, or other claim clouding title to the vehicle.

(i) If the eligible claim is based on the failure to pay third parties for insurance, service contracts, or goods or services, the application shall 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 eligible claim is 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) For purposes of this chapter, “private carrier” means a motor carrier of property, who transports only his or her own property, including, but not limited to, the delivery of goods sold by that carrier.

SEC. 5.5. Section 34601 of the Vehicle Code is amended to read:

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

baggage and express upon a passenger vehicle incidental to the transportation of passengers.

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

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

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

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

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

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

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

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

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

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

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

(d) For purposes of this chapter, “private carrier” means a motor carrier of property, who transports only his or her own property, including, but not limited to, the delivery of goods sold by that carrier.

(e) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 6. Section 5.5 of this bill incorporates changes to Section 34601 of the Vehicle Code proposed by both this bill and Assembly Bill 529. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 34601 of the

Vehicle Code, and (3) this bill is enacted after Assembly Bill 529, in which case Section 5 of this bill shall not become operative.

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