

ASSEMBLY BILL

No. 265

Introduced by Assembly Member Holden

February 10, 2015

An act to amend Section 2983.37 of the Civil Code, relating to consumer protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 265, as introduced, Holden. Consumer protection: buy-here-pay-here dealers.

Existing law requires buy-here-pay-here dealers, as defined, to provide buyers with specific warranties, disclosures, and services. Existing law prohibits a buy-here-pay-here dealer from locating a vehicle with electronic tracking technology or disabling a vehicle with starter interrupt technology unless specified requirements are met, and makes a violation of this prohibition a misdemeanor.

This bill would prohibit a buy-here-pay-here dealer from disabling a vehicle with starter interrupt technology unless the dealer also provides the buyer with specific written disclosures 30 days before the dealer disables the vehicle. By expanding the scope of a crime, this bill would impose a state-mandated local program.

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 2983.37 of the Civil Code is amended
2 to read:

3 2983.37. (a) After a sale of a vehicle under this chapter, a
4 buy-here-pay-here dealer, as defined in Section 241 of the Vehicle
5 Code, shall not do any of the following:

6 (1) Utilize electronic tracking technology to obtain or record
7 the location of the vehicle, unless the buyer is expressly made
8 aware of the existence and use of the tracking technology by the
9 buy-here-pay-here dealer, the buyer’s written consent is obtained,
10 and either subparagraph (A) or (B), or both, apply:

11 (A) The electronic tracking technology is used solely to verify
12 and maintain the operational status of the tracking technology, to
13 repossess the vehicle, or to locate the vehicle to service the loan
14 or keep the loan current.

15 (B) The electronic tracking technology is used solely for ~~any~~
16 *an* optional service to the buyer and both of the following
17 conditions are met:

18 (i) The agreement to utilize electronic tracking technology for
19 the optional service is separate from the purchase and sale
20 agreement, is not a condition of the purchase or sale agreement
21 for the vehicle, and is executed after the completion of the purchase
22 or sale agreement for the vehicle.

23 (ii) The buyer is permitted to cancel the optional service at any
24 point in the future without affecting the sale of the vehicle, and is
25 informed of his or her ability to do so.

26 (2) Disable the vehicle by using starter interrupt technology,
27 unless the buy-here-pay-here dealer complies with all of the
28 ~~following provisions:~~ *following:*

29 ~~(A) Notifies the buyer in writing at the time of the sale that~~

30 *(A) At the time of the sale, the buy-here-pay-here dealer provides*
31 *the buyer written notice of both of the following:*

32 *(i) That the vehicle is equipped with starter interrupt technology,*
33 *which technology that the buy-here-pay-here dealer can use to*
34 *shut down the vehicle remotely.*

35 ~~(B) The written disclosure provided to the buyer at the time of~~
36 ~~sale informs the buyer that~~

37 *(ii) That a warning will be provided no less than 48 hours before*
38 *the use of the starter interrupt technology to shut down the vehicle*

1 remotely and ~~discloses~~ the manner and method in which that
2 warning will occur. The *buy-here-pay-here* dealer shall offer the
3 buyer a choice of warning methods, including warning from the
4 device, telephone call, e-mail, or text message, if available,
5 provided that the warning method does not violate applicable state
6 or federal law.

7 (B) *At least 30 days prior to disabling the vehicle for the buyer's*
8 *failure to tender timely loan repayments, the buy-here-pay-here*
9 *dealer provides the buyer written notice of all of the following:*

10 (i) *That the loan is past due.*

11 (ii) *That the buy-here-pay-here dealer may use starter interrupt*
12 *technology to disable the vehicle within 30 days of the mailing*
13 *date of the notice.*

14 (iii) *The amount currently due on the loan.*

15 (iv) *The acceptable forms of payment of the amount currently*
16 *due.*

17 (v) *That the vehicle will not be disabled if the buyer tenders the*
18 *amount currently due on the loan to the buy-here-pay-here dealer*
19 *in an acceptable form of payment within 30 days of the mailing*
20 *date of the notice.*

21 (vi) *That, if the loan is not paid, a warning will be provided*
22 *using the warning method specified at the time of sale to the buyer*
23 *no less than 48 hours before the use of the starter interrupt*
24 *technology to shut down the vehicle remotely.*

25 (C) In the event of an emergency, the buyer will be provided
26 with the ability to start a dealer-disabled vehicle for no less than
27 24 hours after the vehicle's initial disablement.

28 (b) A buy-here-pay-here dealer shall not require the buyer to
29 make payments to the seller in person. For purposes of this
30 subdivision, "payments" does not include the downpayment. If
31 the buyer tenders timely payment of a deferred downpayment, the
32 dealer shall not repossess the vehicle or impose any other charge
33 or penalty on the grounds that the payment was not made in person.

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

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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