

Assembly Bill No. 265

Passed the Assembly July 16, 2015

Chief Clerk of the Assembly

Passed the Senate July 13, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 265, 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 the dealer provides written disclosure to the buyer at the time the vehicle is purchased that the vehicle is equipped with starter interrupt technology and that disclosure informs the buyer that a warning will be provided no less than 48 hours before the use of the starter interrupt technology to shut down the vehicle remotely, as specified. Existing law provides that in the event of an emergency the buyer will be provided with the ability to start a dealer-disabled vehicle for no less than 24 hours after the vehicle's initial disablement. Existing law makes a violation of this prohibition a misdemeanor punishable as a fine not exceeding \$1,000.

This bill would instead require the written disclosure provided to the buyer at the time of sale to inform the buyer that a warning will be provided 5 days before the use of the starter interrupt technology for all weekly payment term contracts and 10 days before the use of starter interrupt technology on all other contracts and a final warning will be provided no less than 48 hours before the use of the starter interrupt technology to shut down the vehicle remotely, as specified. The bill would require the written disclosure provided to the buyer at the time of sale to inform the buyer that in the event of an emergency he or she will be provided with the ability to start a dealer-disabled vehicle for no less than 24 hours after the vehicle's initial disablement. The bill would also increase the maximum fine amount from \$1,000 to \$2,000.

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.

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

SECTION 1. Section 2983.37 of the Civil Code is amended to read:

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

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

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

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

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

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

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

(A) Notifies the buyer in writing at the time of the sale that the vehicle is equipped with starter interrupt technology, which the

buy-here-pay-here dealer can use to shut down the vehicle remotely.

(B) The written disclosure provided to the buyer at the time of sale informs the buyer that a warning will be provided five days before the use of the starter interrupt technology for all weekly payment term contracts and 10 days before the use of starter interrupt technology on all other contracts, and a final warning will be provided no less than 48 hours before the use of the starter interrupt technology to shut down the vehicle remotely and discloses the manner and method in which that warning will occur. The dealer shall offer the buyer a choice of warning methods, including warning from the device, telephone call, email, or text message, if available, provided that the warning method does not violate applicable state or federal law.

(C) The written disclosure provided to the buyer at the time of sale informs the buyer that in the event of an emergency, the buyer will be provided with the ability to start a dealer-disabled vehicle for no less than 24 hours after the vehicle's initial disablement.

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

(c) Each violation of this section is a misdemeanor punishable by a fine not exceeding two thousand dollars (\$2,000).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2015

Governor