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AMENDED IN ASSEMBLY MARCH 23, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 287

**Introduced by Assembly Members Gordon, Eggman, and
Mark Stone**
(Principal coauthor: Assembly Member Wilk)
(Coauthor: Assembly Member Jones)
(Coauthors: Assembly Members Dababneh, Dodd, Jones, and Lackey)

February 11, 2015

An act to amend Sections 3050, 3066, 4751, and 11713.3 of, to add Section 3065.2 to, and to add Article 1.1 (commencing with Section 11750) to Chapter 4 of Division 5 of, the Vehicle Code, relating to vehicle safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 287, as amended, Gordon. Vehicle safety: recalls.

Existing law generally regulates the transfer and registration of motor vehicles. Existing federal law requires a motor vehicle manufacturer to notify the owner or purchaser of a motor vehicle when the manufacturer determines that the vehicle contains a safety-related defect or when the manufacturer is ordered by the federal Secretary of Transportation to notify vehicle owners and purchasers that a vehicle has a safety-related defect. Existing federal law also prohibits a motor vehicle dealer from selling a vehicle if it has been notified of a safety-related defect by the manufacturer, except as specified.

This bill would enact the Consumer Automotive Recall Safety Act, which would be operative on and after July 1, 2016. The act would

require a vehicle manufacturer to display notifications of Stop Sale – Stop Drive recalls, as defined, on the manufacturer’s Internet Web site. The act would require a vehicle manufacturer to provide a rental or loaner car for a consumer who seeks to have a vehicle repaired because of a recall, and *recall* but the parts or procedures are not yet available to perform the repair. The act would also require a vehicle manufacturer to compensate its franchisees, as specified, for costs incurred in providing a loaner or rental car and storing a consumer’s vehicle that is subject to recall if the parts or procedures are not yet available to perform the repair.

The act would prohibit a vehicle dealer from displaying or offering for sale at retail a used vehicle, unless the dealer has obtained a recall database report within 30 days of the display or offer. The act would prohibit a vehicle dealer from selling or leasing a vehicle at retail if the used vehicle ~~that has~~ *is subject to* a Stop Sale – Stop Drive recall ~~recall~~, until the recalled vehicle has been repaired, subject to exception. The act would prohibit a rental car company from ~~offering a vehicle for rent unless the company has obtained a recall database report within 30 days of the offer.~~ *renting a vehicle that is subject to a recall*, until the recalled vehicle has been repaired, ~~subject to exception.~~ *as specified*. By creating new prohibitions, the violation of which would be a crime under existing law, this bill would impose a state-mandated local program.

Existing law establishes the New Motor Vehicle Board in the Department of Motor Vehicles, and requires the board to hear and decide certain protests presented by a motor vehicle franchisee in regard to a dispute with the vehicle manufacturer.

This bill would, commencing July 1, 2016, authorize the board to hear and decide protests by franchisees regarding payments for providing a loaner or rental car and storing a consumer’s vehicle subject to recall if the parts or procedures are not yet available to perform the repair. The bill would make additional conforming changes.

Existing law prescribes certain instances when the Department of Motor Vehicles may refuse registration, or renewal or transfer of registration, of a vehicle, including, among others, if the applicant has failed to furnish the department with an odometer disclosure statement, as specified.

This bill would additionally authorize the department, commencing July 1, 2016, to refuse registration, or renewal or transfer of registration,

of a vehicle if the applicant has failed to furnish the department with a recall disclosure statement, as defined.

Under existing law, a vehicle manufacturer, manufacturer branch, distributor, and distributor branch are prohibited from engaging in specified practices. Existing law makes a violation of these prohibitions a crime.

This bill would, commencing July 1, 2016, include within those prohibited practices, unfairly discriminating among franchisees with respect to reimbursement for costs incurred in providing a loaner or rental car and storing a consumer's vehicle that is subject to recall if the parts or procedures are not yet available to perform the repair. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The bill would state findings and declarations of the Legislature relative to vehicle recalls.

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. (a) The Legislature finds and declares all of the
2 following:

3 (1) Over the past one-half decade, automakers and the National
4 Highway Traffic Safety Administration have issued more recalls
5 on new and used motor vehicles than ever before. The year 2014
6 set the record for the most recalls on vehicles in United States
7 history with over 63.8 million vehicles recalled. The rate of vehicle
8 recalls has exponentially grown over this past one-half decade as
9 22 million recalls were issued in 2013 and 16.2 million were issued
10 in 2012. The increase of recalls in 2014 is a 190 percent increase
11 from 2013 and a 293.8 percent increase from 2012.

12 (2) While federal motor vehicle safety standards are more
13 demanding now than at any other point in time and new vehicles
14 sold today are the safest in history, the exponential growth of
15 recalls issued on motor vehicles has caused confusion and apathy

1 for far too many Californians. According to the National Highway
2 Traffic Safety Administration and ~~others~~ *others*, about one-third
3 of all recalled vehicles are never repaired by the vehicle's owner.

4 (3) Federal regulations now require most vehicle manufacturers
5 to provide motor vehicle safety recall information applicable to
6 the vehicles they manufacture on the Internet and ~~available~~ to the
7 public. Dealers, rental car companies, and private parties offering
8 vehicles for sale or rent now have greater access to recall
9 information than ever before.

10 (4) Federal law imposes a requirement not to sell a new vehicle
11 subject to a recall, but neither federal nor California law addresses
12 used vehicles subject to a recall. It is the intent of this act to address
13 used vehicles subject to a recall that are not yet repaired.

14 (b) Accordingly, it is the intent of the Legislature in enacting
15 this act to increase consumer awareness of recalls in the car
16 purchasing and rental process, to ensure that consumers have access
17 to loaner and rental vehicles while their recalled vehicles are being
18 repaired at a new motor vehicle dealer, and to ensure that a recalled
19 vehicle that poses a risk of imminent harm is not sold or rented to
20 Californians until the risk is removed and the vehicle is repaired.

21 (c) The Legislature further finds and declares all of the
22 following:

23 (1) The distribution, sale, and service of new motor vehicles in
24 the State of California vitally affects the general economy of this
25 state and the public welfare.

26 (2) The new motor vehicle franchise system, which operates
27 within a strictly defined and highly regulated statutory scheme,
28 assures the consuming public of a well-organized distribution
29 system for the availability and sale of new motor vehicles
30 throughout the state, provides a network of quality warranty, recall,
31 and repair facilities to maintain those vehicles, and creates a
32 cost-effective method for the state to police those systems through
33 the licensing and regulation of private sector franchisors and
34 franchisees.

35 (3) Franchisors sometimes establish programs to reimburse
36 franchisees for loaner or rental cars given to consumers whose
37 vehicles have been recalled, but California franchise laws fail to
38 establish guidelines for rental or loaner vehicle reimbursement.

39 (4) California franchise laws require manufacturers to provide
40 reasonable reimbursement to dealers for warranty and recall work,

1 but fails to establish guidelines for compensating franchisee costs
2 associated with recalled vehicles that cannot be repaired and remain
3 in the franchisee's possession.

4 (d) Accordingly, it is the intent of the Legislature in enacting
5 this act to ensure that new motor vehicle dealer franchisees are
6 treated fairly by their franchisors, that new motor vehicle dealer
7 franchisees are reasonably reimbursed for providing loaner or
8 rental vehicles to consumers who have recalled vehicles when the
9 parts or procedures to make the recall repair are not available, and
10 that new motor vehicle dealer franchisees are reasonably
11 compensated for recalled vehicles at their dealerships that cannot
12 immediately be repaired and must be stored by the franchisee at
13 the dealership.

14 SEC. 2. Section 3050 of the Vehicle Code is amended to read:
15 3050. The board shall do all of the following:

16 (a) Adopt rules and regulations in accordance with Chapter 3.5
17 (commencing with Section 11340) of Part 1 of Division 3 of Title
18 2 of the Government Code governing those matters that are
19 specifically committed to its jurisdiction.

20 (b) Hear and determine, within the limitations and in accordance
21 with the procedure provided, an appeal presented by an applicant
22 for, or holder of, a license as a new motor vehicle dealer,
23 manufacturer, manufacturer branch, distributor, distributor branch,
24 or representative when the applicant or licensee submits an appeal
25 provided for in this chapter from a decision arising out of the
26 department.

27 (c) Consider any matter concerning the activities or practices
28 of any person applying for or holding a license as a new motor
29 vehicle dealer, manufacturer, manufacturer branch, distributor,
30 distributor branch, or representative pursuant to Chapter 4
31 (commencing with Section 11700) of Division 5 submitted by any
32 person. A member of the board who is a new motor vehicle dealer
33 may not participate in, hear, comment, advise other members upon,
34 or decide any matter considered by the board pursuant to this
35 subdivision that involves a dispute between a franchisee and
36 franchisor. After that consideration, the board may do any one or
37 any combination of the following:

38 (1) Direct the department to conduct investigation of matters
39 that the board deems reasonable, and make a written report on the

1 results of the investigation to the board within the time specified
2 by the board.

3 (2) Undertake to mediate, arbitrate, or otherwise resolve any
4 honest difference of opinion or viewpoint existing between any
5 member of the public and any new motor vehicle dealer,
6 manufacturer, manufacturer branch, distributor, distributor branch,
7 or representative.

8 (3) Order the department to exercise any and all authority or
9 power that the department may have with respect to the issuance,
10 renewal, refusal to renew, suspension, or revocation of the license
11 of any new motor vehicle dealer, manufacturer, manufacturer
12 branch, distributor, distributor branch, or representative as that
13 license is required under Chapter 4 (commencing with Section
14 11700) of Division 5.

15 (d) Hear and decide, within the limitations and in accordance
16 with the procedure provided, a protest presented by a franchisee
17 pursuant to Section 3060, 3062, 3064, 3065, 3065.1, 3065.2, 3070,
18 3072, 3074, 3075, or 3076. A member of the board who is a new
19 motor vehicle dealer may not participate in, hear, comment, advise
20 other members upon, or decide, any matter involving a protest
21 filed pursuant to Article 4 (commencing with Section 3060), unless
22 all parties to the protest stipulate otherwise.

23 (e) Notwithstanding subdivisions (c) and (d), the courts have
24 jurisdiction over all common law and statutory claims originally
25 cognizable in the courts. For those claims, a party may initiate an
26 action directly in any court of competent jurisdiction.

27 SEC. 3. Section 3065.2 is added to the Vehicle Code, to read:

28 3065.2. (a) A claim made by a franchisee for payment under
29 Section 11760 shall be either approved or disapproved within 30
30 days after receipt by the franchisor. When a claim is disapproved,
31 the franchisee who submits it shall be notified in writing of its
32 disapproval within the required period, and each notice shall state
33 the specific grounds upon which the disapproval is based. Any
34 claim not specifically disapproved in writing within 30 days from
35 receipt shall be deemed approved on the 30th day.

36 (b) Franchisee claims for compensation under Section 11760
37 shall not be disapproved unless the claim is false or fraudulent,
38 the claim is ineligible under the statute, or for material
39 noncompliance with reasonable and nondiscriminatory

1 requirements of the franchisor, including documentation and
2 administrative claims submission requirements.

3 (c) The franchisor shall provide a reasonable appeal process
4 allowing the franchisee at least 30 days after receipt of the written
5 disapproval notice to respond to any disapproval with additional
6 supporting documentation or information rebutting the disapproval.
7 If disapproval is based upon noncompliance with documentation
8 or administrative claims submission requirements, the franchisor
9 shall allow the franchisee at least 30 days from the date of receipt
10 of the written disapproval notice to cure any material
11 noncompliance. If the disapproval is rebutted, and material
12 noncompliance is cured before the applicable deadline, the
13 franchisor shall approve the claim.

14 (d) If the franchisee provides additional supporting
15 documentation or information purporting to rebut the disapproval,
16 attempts to cure noncompliance relating to the claim, or otherwise
17 appeals denial of the claim, and the franchisor continues to deny
18 the claim, the franchisor shall provide the franchisee with a written
19 notification of the final denial within 30 days of completion of the
20 appeal process, which shall conspicuously state “Final Denial” on
21 the first page.

22 (e) Following the disapproval of a claim, a franchisee shall have
23 six months from receipt of the written notice described in either
24 subdivision (a) or (d), whichever is later, to file a protest with the
25 board for determination of whether the franchisor complied with
26 subdivisions (a), (b), (c), and (d). In any hearing pursuant to this
27 subdivision or subdivision (a), (b), (c), or (d), the franchisor shall
28 have the burden of proof.

29 (f) A claim made by franchisees under this section shall be paid
30 within 30 days following approval. Failure to approve or pay within
31 the time limits specified in this section, in individual instances for
32 reasons beyond the reasonable control of the franchisor, is not a
33 violation of this section.

34 (g) (1) Audits of franchisee records for payment under Section
35 11760 may be conducted by the franchisor on a reasonable basis,
36 and for a period of nine months after a claim is paid or credit
37 issued. A franchisor shall not select a franchisee for an audit, or
38 perform an audit, in a punitive, retaliatory, or unfairly
39 discriminatory manner. A franchisor may conduct no more than
40 one random audit of a franchisee in a nine-month period. The

1 franchisor’s notification to the franchisee of any additional audit
2 within a nine-month period shall be accompanied by written
3 disclosure of the basis for that additional audit.

4 (2) Previously approved claims shall not be disapproved and
5 charged back unless the claim is false or fraudulent, the claim is
6 ineligible under the statute, or for material noncompliance with
7 reasonable and nondiscriminatory requirements of the franchisor,
8 including documentation and administrative claims submission
9 requirements. A franchisor shall not disapprove a claim or
10 ~~chargeback~~ *charge back* a claim based upon an extrapolation from
11 a sample of claims, unless the sample of claims is selected
12 randomly and the extrapolation is performed in a reasonable and
13 statistically valid manner.

14 (3) If the franchisor disapproves of a previously approved claim
15 following an audit, the franchisor shall provide to the franchisee,
16 within 30 days after the audit, a written disapproval notice stating
17 the specific grounds upon which the claim is disapproved. The
18 franchisor shall provide a reasonable appeal process allowing the
19 franchisee a reasonable period of not less than 30 days after receipt
20 of the written disapproval notice to respond to any disapproval
21 with additional supporting documentation or information rebutting
22 the disapproval and to cure any material noncompliance, with the
23 period to be commensurate with the volume of claims under
24 consideration. If the franchisee rebuts any disapproval and cures
25 any material noncompliance relating to a claim before the
26 applicable deadline, the franchisor shall not ~~chargeback~~ *charge*
27 *back* the franchisee for that claim.

28 (4) If the franchisee provides additional supporting
29 documentation or information purporting to rebut the disapproval,
30 attempts to cure noncompliance relating to the claim, or otherwise
31 appeals denial of the claim, and the franchisor continues to deny
32 the claim, the franchisor shall provide the franchisee with a written
33 notification of the final denial within 30 days of completion of the
34 appeal process, which shall conspicuously state “Final Denial” on
35 the first page.

36 (5) The franchisor shall not ~~chargeback~~ *charge back* the
37 franchisee until 45 days after the franchisee receives the written
38 notice described in paragraph (3) or (4), whichever is later. If the
39 franchisee cures any material noncompliance relating to a claim,
40 the franchisor shall not ~~chargeback~~ *charge back* the dealer for that

1 claim. Any chargeback to a franchisee ~~for~~ under Section 11760
2 shall be made within 90 days after the franchisee receives that
3 written notice. If the board sustains the chargeback or the protest
4 is dismissed, the franchisor shall have 90 days following issuance
5 of the final order or the dismissal to make the chargeback, unless
6 otherwise provided in a settlement agreement.

7 (6) Within six months after receipt of the written notice
8 described in either paragraph (3) or (4), a franchisee may file a
9 protest with the board for determination of whether the franchisor
10 complied with this subdivision. If the franchisee files a protest
11 pursuant to this subdivision prior to the franchisor's chargeback
12 for denied claims, the franchisor shall not offset or otherwise
13 undertake to collect the chargeback until the board issues a final
14 order on the protest. In any protest pursuant to this subdivision,
15 the franchisor shall have the burden of proof.

16 (h) If a false claim was submitted by a franchisee with the intent
17 to defraud the franchisor, a longer period for audit and any resulting
18 chargeback may be permitted if the franchisor obtains an order
19 from the board.

20 (i) This section shall become operative on July 1, 2016.

21 SEC. 4. Section 3066 of the Vehicle Code is amended to read:

22 3066. (a) Upon receiving a protest pursuant to Section 3060,
23 3062, 3064, 3065, 3065.1, 3065.2, 3070, 3072, 3074, 3075, or
24 3076, the board shall fix a time within 60 days of the order, and
25 place of hearing, and shall send by registered mail a copy of the
26 order to the franchisor, the protesting franchisee, and all individuals
27 and groups that have requested notification by the board of protests
28 and decisions of the board. Except in a case involving a franchisee
29 who deals exclusively in motorcycles, the board or its executive
30 director may, upon a showing of good cause, accelerate or postpone
31 the date initially established for a hearing, but the hearing may not
32 be rescheduled more than 90 days after the board's initial order.
33 For the purpose of accelerating or postponing a hearing date, "good
34 cause" includes, but is not limited to, the effects upon, and any
35 irreparable harm to, the parties or interested persons or groups if
36 the request for a change in hearing date is not granted. The board
37 or an administrative law judge designated by the board shall hear
38 and consider the oral and documented evidence introduced by the
39 parties and other interested individuals and groups, and the board
40 shall make its decision solely on the record so made. Chapter 4.5

1 (commencing with Section 11400) of Part 1 of Division 3 of Title
2 2 of the Government Code and Sections 11507.3, 11507.6, 11507.7,
3 11511, 11511.5, 11513, 11514, 11515, and 11517 of the
4 Government Code apply to these proceedings.

5 (b) In a hearing on a protest filed pursuant to Section 3060,
6 3062, 3070, or 3072, the franchisor shall have the burden of proof
7 to establish that there is good cause to modify, replace, terminate,
8 or refuse to continue a franchise. The franchisee shall have the
9 burden of proof to establish that there is good cause not to enter
10 into a franchise establishing or relocating an additional motor
11 vehicle dealership.

12 (c) Except as otherwise provided in this chapter, in a hearing
13 on a protest alleging a violation of, or filed pursuant to, Section
14 3064, 3065, 3065.1, 3065.2, 3074, 3075, or 3076, the franchisee
15 shall have the burden of proof, but the franchisor has the burden
16 of proof to establish that a franchisee acted with intent to defraud
17 the franchisor when that issue is material to a protest filed pursuant
18 to Section 3065, 3065.1, 3065.2, 3075, or 3076.

19 (d) A member of the board who is a new motor vehicle dealer
20 may not participate in, hear, comment, or advise other members
21 upon, or decide, a matter involving a protest filed pursuant to this
22 article unless all parties to the protest stipulate otherwise.

23 SEC. 5. Section 4751 of the Vehicle Code is amended to read:
24 4751. The department may refuse registration, or the renewal
25 or transfer of registration, of a vehicle in any of the following
26 events:

27 (a) If the department is not satisfied that the applicant is entitled
28 thereto under this code.

29 (b) If the applicant has failed to furnish the department with
30 information required in the application or reasonable additional
31 information required by the department.

32 (c) If the department determines that the applicant has made or
33 permitted unlawful use of any registration certificate, certificate
34 of ownership, or license plates.

35 (d) If the vehicle is mechanically unfit or unsafe to be operated
36 or moved on the highways.

37 (e) If the department determines that a manufacturer or dealer
38 has failed during the current or previous year to comply with the
39 provisions of this code relating to the giving of notice to the

1 department of the transfer of a vehicle during the current or
2 previous year.

3 (f) If the department determines that a lien exists, pursuant to
4 Section 9800, against one or more other vehicles in which the
5 applicant has an ownership interest.

6 (g) If the applicant has failed to furnish the department with an
7 odometer disclosure statement pursuant to subsection (a) of Section
8 32705 of Title 49 of the United States Code.

9 (h) Commencing July 1, 2016, if the applicant has failed to
10 furnish the department with a recall disclosure statement pursuant
11 to Section 11758.

12 SEC. 6. Section 11713.3 of the Vehicle Code is amended to
13 read:

14 11713.3. It is unlawful and a violation of this code for a
15 manufacturer, manufacturer branch, distributor, or distributor
16 branch licensed pursuant to this code to do, directly or indirectly
17 through an affiliate, any of the following:

18 (a) To refuse or fail to deliver in reasonable quantities and within
19 a reasonable time after receipt of an order from a dealer having a
20 franchise for the retail sale of a new vehicle sold or distributed by
21 the manufacturer or distributor, a new vehicle or parts or
22 accessories to new vehicles as are covered by the franchise, if the
23 vehicle, parts, or accessories are publicly advertised as being
24 available for delivery or actually being delivered. This subdivision
25 is not violated, however, if the failure is caused by acts or causes
26 beyond the control of the manufacturer, manufacturer branch,
27 distributor, or distributor branch.

28 (b) To prevent or require, or attempt to prevent or require, by
29 contract or otherwise, a change in the capital structure of a
30 dealership or the means by or through which the dealer finances
31 the operation of the dealership, if the dealer at all times meets
32 reasonable capital standards agreed to by the dealer and the
33 manufacturer or distributor, and if a change in capital structure
34 does not cause a change in the principal management or have the
35 effect of a sale of the franchise without the consent of the
36 manufacturer or distributor.

37 (c) To prevent or require, or attempt to prevent or require, a
38 dealer to change the executive management of a dealership, other
39 than the principal dealership operator or operators, if the franchise

1 was granted to the dealer in reliance upon the personal
2 qualifications of that person.

3 (d) (1) Except as provided in subdivision (t), to prevent or
4 require, or attempt to prevent or require, by contract or otherwise,
5 a dealer, or an officer, partner, or stockholder of a dealership, the
6 sale or transfer of a part of the interest of any of them to another
7 person. A dealer, officer, partner, or stockholder shall not, however,
8 have the right to sell, transfer, or assign the franchise, or a right
9 thereunder, without the consent of the manufacturer or distributor
10 except that the consent shall not be unreasonably withheld.

11 (2) (A) For the transferring franchisee to fail, prior to the sale,
12 transfer, or assignment of a franchisee or the sale, assignment, or
13 transfer of all, or substantially all, of the assets of the franchised
14 business or a controlling interest in the franchised business to
15 another person, to notify the manufacturer or distributor of the
16 franchisee's decision to sell, transfer, or assign the franchise. The
17 notice shall be in writing and shall include all of the following:

18 (i) The proposed transferee's name and address.

19 (ii) A copy of all of the agreements relating to the sale,
20 assignment, or transfer of the franchised business or its assets.

21 (iii) The proposed transferee's application for approval to
22 become the successor franchisee. The application shall include
23 forms and related information generally utilized by the
24 manufacturer or distributor in reviewing prospective franchisees,
25 if those forms are readily made available to existing franchisees.
26 As soon as practicable after receipt of the proposed transferee's
27 application, the manufacturer or distributor shall notify the
28 franchisee and the proposed transferee of information needed to
29 make the application complete.

30 (B) For the manufacturer or distributor, to fail, on or before 60
31 days after the receipt of all of the information required pursuant
32 to subparagraph (A), or as extended by a written agreement
33 between the manufacturer or distributor and the franchisee, to
34 notify the franchisee of the approval or the disapproval of the sale,
35 transfer, or assignment of the franchise. The notice shall be in
36 writing and shall be personally served or sent by certified mail,
37 return receipt requested, or by guaranteed overnight delivery
38 service that provides verification of delivery and shall be directed
39 to the franchisee. A proposed sale, assignment, or transfer shall
40 be deemed approved, unless disapproved by the franchisor in the

1 manner provided by this subdivision. If the proposed sale,
2 assignment, or transfer is disapproved, the franchisor shall include
3 in the notice of disapproval a statement setting forth the reasons
4 for the disapproval.

5 (3) In an action in which the manufacturer's or distributor's
6 withholding of consent under this subdivision or subdivision (e)
7 is an issue, whether the withholding of consent was unreasonable
8 is a question of fact requiring consideration of all the existing
9 circumstances.

10 (e) To prevent, or attempt to prevent, a dealer from receiving
11 fair and reasonable compensation for the value of the franchised
12 business. There shall not be a transfer or assignment of the dealer's
13 franchise without the consent of the manufacturer or distributor,
14 which consent shall not be unreasonably withheld or conditioned
15 upon the release, assignment, novation, waiver, estoppel, or
16 modification of a claim or defense by the dealer.

17 (f) To obtain money, goods, services, or another benefit from
18 a person with whom the dealer does business, on account of, or in
19 relation to, the transaction between the dealer and that other person,
20 other than for compensation for services rendered, unless the
21 benefit is promptly accounted for, and transmitted to, the dealer.

22 (g) (1) Except as provided in paragraph (3), to obtain from a
23 dealer or enforce against a dealer an agreement, provision, release,
24 assignment, novation, waiver, or estoppel that does any of the
25 following:

26 (A) Modifies or disclaims a duty or obligation of a manufacturer,
27 manufacturer branch, distributor, distributor branch, or
28 representative, or a right or privilege of a dealer, pursuant to
29 Chapter 4 (commencing with Section 11700) of Division 5 or
30 Chapter 6 (commencing with Section 3000) of Division 2.

31 (B) Limits or constrains the right of a dealer to file, pursue, or
32 submit evidence in connection with a protest before the board.

33 (C) Requires a dealer to terminate a franchise.

34 (D) Requires a controversy between a manufacturer,
35 manufacturer branch, distributor, distributor branch, or
36 representative and a dealer to be referred to a person for a binding
37 determination. However, this subparagraph does not prohibit
38 arbitration before an independent arbitrator, provided that whenever
39 a motor vehicle franchise contract provides for the use of arbitration
40 to resolve a controversy arising out of, or relating to, that contract,

1 arbitration may be used to settle the controversy only if, after the
2 controversy arises, all parties to the controversy consent in writing
3 to use arbitration to settle the controversy. For the purpose of this
4 subparagraph, the terms “motor vehicle” and “motor vehicle
5 franchise contract” shall have the same meaning as defined in
6 Section 1226 of Title 15 of the United States Code. If arbitration
7 is elected to settle a dispute under a motor vehicle franchise
8 contract, the arbitrator shall provide the parties to the arbitration
9 with a written explanation of the factual and legal basis for the
10 award.

11 (2) An agreement, provision, release, assignment, novation,
12 waiver, or estoppel prohibited by this subdivision shall be
13 unenforceable and void.

14 (3) This subdivision does not do any of the following:

15 (A) Limit or restrict the terms upon which parties to a protest
16 before the board, civil action, or other proceeding can settle or
17 resolve, or stipulate to evidentiary or procedural matters during
18 the course of, a protest, civil action, or other proceeding.

19 (B) Affect the enforceability of any stipulated order or other
20 order entered by the board.

21 (C) Affect the enforceability of any provision in a contract if
22 the provision is not prohibited under this subdivision or any other
23 law.

24 (D) Affect the enforceability of a provision in any contract
25 entered into on or before December 31, 2011.

26 (E) Prohibit a dealer from waiving its right to file a protest
27 pursuant to Section 3065.1 if the waiver agreement is entered into
28 after a franchisor incentive program claim has been disapproved
29 by the franchisor and the waiver is voluntarily given as part of an
30 agreement to settle that claim.

31 (F) Prohibit a voluntary agreement supported by valuable
32 consideration, other than granting or renewing a franchise, that
33 does both of the following:

34 (i) Provides that a dealer establish or maintain exclusive
35 facilities, personnel, or display space or provides that a dealer
36 make a material alteration, expansion, or addition to a dealership
37 facility.

38 (ii) Contains no waiver or other provision prohibited by
39 subparagraph (A), (B), (C), or (D) of paragraph (1).

1 (G) Prohibit an agreement separate from the franchise agreement
2 that implements a dealer's election to terminate the franchise if
3 the agreement is conditioned only on a specified time for
4 termination or payment of consideration to the dealer.

5 (H) (i) Prohibit a voluntary waiver agreement, supported by
6 valuable consideration, other than the consideration of renewing
7 a franchise, to waive the right of a dealer to file a protest under
8 Section 3062 for the proposed establishment or relocation of a
9 specific proposed dealership, if the waiver agreement provides all
10 of the following:

11 (I) The approximate address at which the proposed dealership
12 will be located.

13 (II) The planning potential used to establish the proposed
14 dealership's facility, personnel, and capital requirements.

15 (III) An approximation of projected vehicle and parts sales, and
16 number of vehicles to be serviced at the proposed dealership.

17 (IV) Whether the franchisor or affiliate will hold an ownership
18 interest in the proposed dealership or real property of the proposed
19 dealership, and the approximate percentage of any franchisor or
20 affiliate ownership interest in the proposed dealership.

21 (V) The line-makes to be operated at the proposed dealership.

22 (VI) If known at the time the waiver agreement is executed, the
23 identity of the dealer who will operate the proposed dealership.

24 (VII) The date the waiver agreement is to expire, which may
25 not be more than 30 months after the date of execution of the
26 waiver agreement.

27 (ii) Notwithstanding the provisions of a waiver agreement
28 entered into pursuant to the provisions of this subparagraph, a
29 dealer may file a protest under Section 3062 if any of the
30 information provided pursuant to clause (i) has become materially
31 inaccurate since the waiver agreement was executed. Any
32 determination of the enforceability of a waiver agreement shall be
33 determined by the board and the franchisor shall have the burden
34 of proof.

35 (h) To increase prices of motor vehicles that the dealer had
36 ordered for private retail consumers prior to the dealer's receipt
37 of the written official price increase notification. A sales contract
38 signed by a private retail consumer is evidence of the order. In the
39 event of manufacturer price reductions, the amount of the reduction
40 received by a dealer shall be passed on to the private retail

1 consumer by the dealer if the retail price was negotiated on the
2 basis of the previous higher price to the dealer. Price reductions
3 apply to all vehicles in the dealer's inventory that were subject to
4 the price reduction. Price differences applicable to new model or
5 series motor vehicles at the time of the introduction of new models
6 or series shall not be considered a price increase or price decrease.
7 This subdivision does not apply to price changes caused by either
8 of the following:

9 (1) The addition to a motor vehicle of required or optional
10 equipment pursuant to state or federal law.

11 (2) Revaluation of the United States dollar in the case of a
12 foreign-make vehicle.

13 (i) To fail to pay to a dealer, within a reasonable time following
14 receipt of a valid claim by a dealer thereof, a payment agreed to
15 be made by the manufacturer or distributor to the dealer by reason
16 of the fact that a new vehicle of a prior year model is in the dealer's
17 inventory at the time of introduction of new model vehicles.

18 (j) To deny the widow, widower, or heirs designated by a
19 deceased owner of a dealership the opportunity to participate in
20 the ownership of the dealership or successor dealership under a
21 valid franchise for a reasonable time after the death of the owner.

22 (k) To offer refunds or other types of inducements to a person
23 for the purchase of new motor vehicles of a certain line-make to
24 be sold to the state or a political subdivision of the state without
25 making the same offer to all other dealers in the same line-make
26 within the relevant market area.

27 (l) To modify, replace, enter into, relocate, terminate, or refuse
28 to renew a franchise in violation of Article 4 (commencing with
29 Section 3060) of Chapter 6 of Division 2.

30 (m) To employ a person as a representative who has not been
31 licensed pursuant to Article 3 (commencing with Section 11900)
32 of Chapter 4 of Division 5.

33 (n) To deny a dealer the right of free association with another
34 dealer for a lawful purpose.

35 (o) (1) To compete with a dealer in the same line-make
36 operating under an agreement or franchise from a manufacturer
37 or distributor in the relevant market area.

38 (2) A manufacturer, branch, or distributor or an entity that
39 controls or is controlled by, a manufacturer, branch, or distributor,

1 shall not, however, be deemed to be competing in the following
2 limited circumstances:

3 (A) Owning or operating a dealership for a temporary period,
4 not to exceed one year at the location of a former dealership of the
5 same line-make that has been out of operation for less than six
6 months. However, after a showing of good cause by a
7 manufacturer, branch, or distributor that it needs additional time
8 to operate a dealership in preparation for sale to a successor
9 independent franchisee, the board may extend the time period.

10 (B) Owning an interest in a dealer as part of a bona fide dealer
11 development program that satisfies all of the following
12 requirements:

13 (i) The sole purpose of the program is to make franchises
14 available to persons lacking capital, training, business experience,
15 or other qualities ordinarily required of prospective franchisees
16 and the dealer development candidate is an individual who is
17 unable to acquire the franchise without assistance of the program.

18 (ii) The dealer development candidate has made a significant
19 investment subject to loss in the franchised business of the dealer.

20 (iii) The program requires the dealer development candidate to
21 manage the day-to-day operations and business affairs of the dealer
22 and to acquire, within a reasonable time and on reasonable terms
23 and conditions, beneficial ownership and control of a majority
24 interest in the dealer and disassociation of any direct or indirect
25 ownership or control by the manufacturer, branch, or distributor.

26 (C) Owning a wholly owned subsidiary corporation of a
27 distributor that sells motor vehicles at retail, if, for at least three
28 years prior to January 1, 1973, the subsidiary corporation has been
29 a wholly owned subsidiary of the distributor and engaged in the
30 sale of vehicles at retail.

31 (3) (A) A manufacturer, branch, and distributor that owns or
32 operates a dealership in the manner described in subparagraph (A)
33 of paragraph (2) shall give written notice to the board, within 10
34 days, each time it commences or terminates operation of a
35 dealership and each time it acquires, changes, or divests itself of
36 an ownership interest.

37 (B) A manufacturer, branch, and distributor that owns an interest
38 in a dealer in the manner described in subparagraph (B) of
39 paragraph (2) shall give written notice to the board, annually, of
40 the name and location of each dealer in which it has an ownership

1 interest, the name of the bona fide dealer development owner or
2 owners, and the ownership interests of each owner expressed as a
3 percentage.

4 (p) To unfairly discriminate among its franchisees with respect
5 to warranty reimbursement or authority granted to its franchisees
6 to make warranty adjustments with retail customers.

7 (q) To sell vehicles to a person not licensed pursuant to this
8 chapter for resale.

9 (r) To fail to affix an identification number to a park trailer, as
10 described in Section 18009.3 of the Health and Safety Code, that
11 is manufactured on or after January 1, 1987, and that does not
12 clearly identify the unit as a park trailer to the department. The
13 configuration of the identification number shall be approved by
14 the department.

15 (s) To dishonor a warranty, rebate, or other incentive offered
16 to the public or a dealer in connection with the retail sale of a new
17 motor vehicle, based solely upon the fact that an autobroker
18 arranged or negotiated the sale. This subdivision shall not prohibit
19 the disallowance of that rebate or incentive if the purchaser or
20 dealer is ineligible to receive the rebate or incentive pursuant to
21 any other term or condition of a rebate or incentive program.

22 (t) To exercise a right of first refusal or other right requiring a
23 franchisee or an owner of the franchise to sell, transfer, or assign
24 to the franchisor, or to a nominee of the franchisor, all or a material
25 part of the franchised business or of the assets of the franchised
26 business unless all of the following requirements are met:

27 (1) The franchise authorizes the franchisor to exercise a right
28 of first refusal to acquire the franchised business or assets of the
29 franchised business in the event of a proposed sale, transfer, or
30 assignment.

31 (2) The franchisor gives written notice of its exercise of the
32 right of first refusal no later than 45 days after the franchisor
33 receives all of the information required pursuant to subparagraph
34 (A) of paragraph (2) of subdivision (d).

35 (3) The sale, transfer, or assignment being proposed relates to
36 not less than all or substantially all of the assets of the franchised
37 business or to a controlling interest in the franchised business.

38 (4) The proposed transferee is neither a family member of an
39 owner of the franchised business, nor a managerial employee of
40 the franchisee owning 15 percent or more of the franchised

1 business, nor a corporation, partnership, or other legal entity owned
2 by the existing owners of the franchised business. For purposes of
3 this paragraph, a “family member” means the spouse of an owner
4 of the franchised business, the child, grandchild, brother, sister,
5 or parent of an owner, or a spouse of one of those family members.
6 This paragraph does not limit the rights of the franchisor to
7 disapprove a proposed transferee as provided in subdivision (d).

8 (5) Upon the franchisor’s exercise of the right of first refusal,
9 the consideration paid by the franchisor to the franchisee and
10 owners of the franchised business shall equal or exceed all
11 consideration that each of them were to have received under the
12 terms of, or in connection with, the proposed sale, assignment, or
13 transfer, and the franchisor shall comply with all the terms and
14 conditions of the agreement or agreements to sell, transfer, or
15 assign the franchised business.

16 (6) The franchisor shall reimburse the proposed transferee for
17 expenses paid or incurred by the proposed transferee in evaluating,
18 investigating, and negotiating the proposed transfer to the extent
19 those expenses do not exceed the usual, customary, and reasonable
20 fees charged for similar work done in the area in which the
21 franchised business is located. These expenses include, but are not
22 limited to, legal and accounting expenses, and expenses incurred
23 for title reports and environmental or other investigations of real
24 property on which the franchisee’s operations are conducted. The
25 proposed transferee shall provide the franchisor a written
26 itemization of those expenses, and a copy of all nonprivileged
27 reports and studies for which expenses were incurred, if any, within
28 30 days of the proposed transferee’s receipt of a written request
29 from the franchisor for that accounting. The franchisor shall make
30 payment within 30 days of exercising the right of first refusal.

31 (u) (1) To unfairly discriminate in favor of a dealership owned
32 or controlled, in whole or in part, by a manufacturer or distributor
33 or an entity that controls or is controlled by the manufacturer or
34 distributor. Unfair discrimination includes, but is not limited to,
35 the following:

36 (A) The furnishing to a franchisee or dealer that is owned or
37 controlled, in whole or in part, by a manufacturer, branch, or
38 distributor of any of the following:

39 (i) A vehicle that is not made available to each franchisee
40 pursuant to a reasonable allocation formula that is applied

1 uniformly, and a part or accessory that is not made available to all
2 franchisees on an equal basis when there is no reasonable allocation
3 formula that is applied uniformly.

4 (ii) A vehicle, part, or accessory that is not made available to
5 each franchisee on comparable delivery terms, including the time
6 of delivery after the placement of an order. Differences in delivery
7 terms due to geographic distances or other factors beyond the
8 control of the manufacturer, branch, or distributor shall not
9 constitute unfair competition.

10 (iii) Information obtained from a franchisee by the manufacturer,
11 branch, or distributor concerning the business affairs or operations
12 of a franchisee in which the manufacturer, branch, or distributor
13 does not have an ownership interest. The information includes,
14 but is not limited to, information contained in financial statements
15 and operating reports, the name, address, or other personal
16 information or buying, leasing, or service behavior of a dealer
17 customer, and other information that, if provided to a franchisee
18 or dealer owned or controlled by a manufacturer or distributor,
19 would give that franchisee or dealer a competitive advantage. This
20 clause does not apply if the information is provided pursuant to a
21 subpoena or court order, or to aggregated information made
22 available to all franchisees.

23 (iv) Sales or service incentives, discounts, or promotional
24 programs that are not made available to all California franchises
25 of the same line-make on an equal basis.

26 (B) Referring a prospective purchaser or lessee to a dealer in
27 which a manufacturer, branch, or distributor has an ownership
28 interest, unless the prospective purchaser or lessee resides in the
29 area of responsibility assigned to that dealer or the prospective
30 purchaser or lessee requests to be referred to that dealer. For
31 purposes of this subparagraph, the term “area of responsibility”
32 means a geographic area specified in a franchise that is used by
33 the franchisor for the purpose of evaluating the franchisee’s
34 performance of its sales and service obligations.

35 (2) This subdivision does not prohibit a franchisor from granting
36 a franchise to prospective franchisees or assisting those franchisees
37 during the course of the franchise relationship as part of a program
38 or programs to make franchises available to persons lacking capital,
39 training, business experience, or other qualifications ordinarily
40 required of prospective franchisees.

1 (v) (1) To access, modify, or extract information from a
2 confidential dealer computer record, as defined in Section
3 11713.25, without obtaining the prior written consent of the dealer
4 and without maintaining administrative, technical, and physical
5 safeguards to protect the security, confidentiality, and integrity of
6 the information.

7 (2) Paragraph (1) does not limit a duty that a dealer may have
8 to safeguard the security and privacy of records maintained by the
9 dealer.

10 (w) (1) To use electronic, contractual, or other means to prevent
11 or interfere with any of the following:

12 (A) The lawful efforts of a dealer to comply with federal and
13 state data security and privacy laws.

14 (B) The ability of a dealer to do either of the following:

15 (i) Ensure that specific data accessed from the dealer's computer
16 system is within the scope of consent specified in subdivision (v).

17 (ii) Monitor specific data accessed from or written to the dealer's
18 computer system.

19 (2) Paragraph (1) does not limit a duty that a dealer may have
20 to safeguard the security and privacy of records maintained by the
21 dealer.

22 (x) (1) To unfairly discriminate against a franchisee selling a
23 service contract, debt cancellation agreement, maintenance
24 agreement, or similar product not approved, endorsed, sponsored,
25 or offered by the manufacturer, manufacturer branch, distributor,
26 or distributor branch or affiliate. For purposes of this subdivision,
27 unfair discrimination includes, but is not limited to, any of the
28 following:

29 (A) Express or implied statements that the dealer is under an
30 obligation to exclusively sell or offer to sell service contracts, debt
31 cancellation agreements, or similar products approved, endorsed,
32 sponsored, or offered by the manufacturer, manufacturer branch,
33 distributor, or distributor branch or affiliate.

34 (B) Express or implied statements that selling or offering to sell
35 service contracts, debt cancellation agreements, maintenance
36 agreements, or similar products not approved, endorsed, sponsored,
37 or offered by the manufacturer, manufacturer branch, distributor,
38 or distributor branch or affiliate, or the failure to sell or offer to
39 sell service contracts, debt cancellation agreements, maintenance
40 agreements, or similar products approved, endorsed, sponsored,

1 or offered by the manufacturer, manufacturer branch, distributor,
2 or distributor branch or affiliate will have any negative
3 consequences for the dealer.

4 (C) Measuring a dealer's performance under a franchise
5 agreement based upon the sale of service contracts, debt
6 cancellation agreements, or similar products approved, endorsed,
7 sponsored, or offered by the manufacturer, manufacturer branch,
8 distributor, or distributor branch or affiliate.

9 (D) Requiring a dealer to actively promote the sale of service
10 contracts, debt cancellation agreements, or similar products
11 approved, endorsed, sponsored, or offered by the manufacturer,
12 manufacturer branch, distributor, or distributor branch or affiliate.

13 (E) Conditioning access to vehicles or parts, or vehicle sales or
14 service incentives upon the sale of service contracts, debt
15 cancellation agreements, or similar products approved, endorsed,
16 sponsored, or offered by the manufacturer, manufacturer branch,
17 distributor, or distributor branch or affiliate.

18 (2) Unfair discrimination does not include, and nothing shall
19 prohibit a manufacturer from, offering an incentive program to
20 vehicle dealers who voluntarily sell or offer to sell service
21 contracts, debt cancellation agreements, or similar products
22 approved, endorsed, sponsored, or offered by the manufacturer,
23 manufacturer branch, distributor, or distributor branch or affiliate,
24 if the program does not provide vehicle sales or service incentives.

25 (3) This subdivision does not prohibit a manufacturer,
26 manufacturer branch, distributor, or distributor branch from
27 requiring a franchisee that sells a used vehicle as "certified" under
28 a certified used vehicle program established by the manufacturer,
29 manufacturer branch, distributor, or distributor branch to provide
30 a service contract approved, endorsed, sponsored, or offered by
31 the manufacturer, manufacturer branch, distributor, or distributor
32 branch.

33 (4) Unfair discrimination does not include, and nothing shall
34 prohibit a franchisor from requiring a franchisee to provide, the
35 following notice prior to the sale of the service contract if the
36 service contract is not provided or backed by the franchisor and
37 the vehicle is of the franchised line-make:

38
39 "Service Contract Disclosure

1 The service contract you are purchasing is not provided or backed
2 by the manufacturer of the vehicle you are purchasing. The
3 manufacturer of the vehicle is not responsible for claims or repairs
4 under this service contract.

5 _____
6 Signature of Purchaser”
7

8 (y) To take or threaten to take any adverse action against a dealer
9 pursuant to an export or sale-for-resale prohibition because the
10 dealer sold or leased a vehicle to a customer who either exported
11 the vehicle to a foreign country or resold the vehicle in violation
12 of the prohibition, unless the export or sale-for-resale prohibition
13 policy was provided to the dealer in writing prior to the sale or
14 lease, and the dealer knew or reasonably should have known of
15 the customer’s intent to export or resell the vehicle in violation of
16 the prohibition at the time of sale or lease. If the dealer causes the
17 vehicle to be registered in this or any other state, and collects or
18 causes to be collected any applicable sales or use tax due to this
19 state, a rebuttable presumption is established that the dealer did
20 not have reason to know of the customer’s intent to export or resell
21 the vehicle.

22 (z) Commencing July 1, 2016, to unfairly discriminate among
23 its franchisees with respect to reimbursement or authority granted
24 to its franchisees pursuant to subdivision (c) or (d) of Section
25 11760.

26 SEC. 7. Article 1.1 (commencing with Section 11750) is added
27 to Chapter 4 of Division 5 of the Vehicle Code, to read:

28
29 Article 1.1. Consumer Automotive Recall Safety Act
30

31 11750. This ~~chapter~~ *article* shall be known, and may be cited,
32 as the Consumer Automotive Recall Safety Act (CARS Act).

33 11752. As used in this ~~chapter~~, *article*, the following definitions
34 apply:

35 (a) The term “dealer” has the same meaning as in Section 285.

36 (b) (1) A “manufacturer’s recall” is a recall conducted pursuant
37 to Sections 30118 to 30120, inclusive, of Title 49 of the United
38 States Code, the National Highway Traffic and Motor Vehicle
39 Safety Act (49 U.S.C. Sec. 30101, et seq.).

1 (2) A manufacturer’s recall does not include a service campaign
2 or emission recall when the vehicle manufacturer or the National
3 Highway Traffic Safety Administration has not issued a recall
4 notice to owners of affected vehicles, pursuant to Section 30118
5 of Title 49 of the United States Code, the National Highway Traffic
6 and Motor Vehicle Safety Act (49 U.S.C. Sec. 30101, et seq.). A
7 manufacturer’s recall does not include a Stop Sale – Stop Drive
8 recall.

9 (c) The term “new motor vehicle dealer” has the same meaning
10 as in Section 426.

11 (d) A “recall database” is a database from which an individual
12 may obtain vehicle identification number (VIN) specific Stop Sale
13 – Stop Drive recall and manufacturer’s recall information relevant
14 to a specific vehicle.

15 (1) For a vehicle manufacturer that is not subject to the
16 regulations adopted pursuant to Section 31301 of the federal
17 Moving Ahead for Progress in the 21st Century Act (Public Law
18 112-141), a recall database is one of the following:

19 (A) The recall data on a vehicle manufacturer’s Internet Web
20 site for a specific vehicle’s ~~line-make~~ *line-make*.

21 (B) The recall data in a vehicle manufacturer’s internal system
22 that provides information to its franchisees on vehicles subject to
23 recall.

24 (C) The recall data in subparagraph (A) or (B) that is contained
25 in a commercially available vehicle history system.

26 (2) For a vehicle manufacturer that is subject to the regulations
27 adopted pursuant to Section 31301 of the federal Moving Ahead
28 for Progress in the 21st Century Act (Public Law 112-141), a recall
29 database shall include, at a minimum, the recall information
30 required pursuant to Section 573.15 of Title 49 of the Code of
31 Federal Regulations.

32 (e) A “recall database report” is a report, specific to a vehicle
33 that is identified by its VIN, containing information obtained from
34 a recall database.

35 (f) A “rental car company” is a person or entity in the business
36 of renting passenger vehicles to the public in California.

37 (g) A “Stop Sale – Stop Drive recall” is a recall notice provided
38 to owners of affected vehicles, pursuant to Sections 30118 to
39 30120, inclusive, of Title 49 of the United States Code, the National
40 Highway Traffic and Motor Vehicle Safety Act (49 U.S.C. Sec.

1 30101, et seq.), when the vehicle manufacturer or the National
2 Highway Traffic Safety Administration informs the dealer to stop
3 the sale of the vehicle or contains prereddy precaution advice to
4 the owner to stop operating the vehicle.

5 (h) A “vehicle manufacturer” is a person who manufactures,
6 assembles, or distributes new motor vehicles, sold or leased, that
7 are subject to registration under this code.

8 11754. (a) A dealer shall not display or offer for sale at retail
9 a used vehicle, as defined in Section ~~665 and 665~~, *that is* subject
10 to registration under this code, unless the dealer has obtained a
11 recall database report within 30 days of the display or offer.

12 (b) If a recall database report obtained by a dealer indicates that
13 a used vehicle is subject to a Stop Sale – Stop Drive recall, the
14 dealer ~~is prohibited from selling or leasing~~ *shall not sell or lease*
15 that vehicle at retail until the recall repair has been made.

16 (c) If a recall database report obtained by a dealer indicates that
17 a used vehicle is subject to a manufacturer’s recall and the used
18 vehicle is of the same ~~line-make~~ *line-make* as the franchise of the
19 new motor vehicle dealer, the dealer ~~is prohibited from selling or~~
20 ~~leasing~~ *shall not sell or lease* that vehicle at retail until the recall
21 repair has been made.

22 (d) If a recall database report obtained by a dealer indicates that
23 a used vehicle is subject to a manufacturer’s recall and the used
24 vehicle is not of the same ~~line-make~~ *line-make* as the franchise of
25 the new motor vehicle dealer or the dealer does not have a
26 franchise, the dealer may sell or lease the vehicle at retail if all of
27 the following are satisfied:

28 (1) The dealer discloses the manufacturer’s recall by providing
29 a copy of the recall database report to the consumer prior to sale
30 or lease.

31 (2) The consumer signs the disclosure acknowledging that the
32 vehicle has a manufacturer’s recall and that the consumer can get
33 the recall repaired at no cost to the consumer at a new motor vehicle
34 dealer of the vehicle’s ~~line-make~~ *line-make*.

35 (e) To comply with subdivision (d), and notwithstanding Section
36 2981.9 of the Civil Code, a recall database report, that indicates
37 the vehicle is subject to a manufacturer’s recall and the recall repair
38 has not been made, shall be disclosed and the disclosure signed
39 by the consumer in a document separate from the conditional sales
40 contract or other vehicle purchase agreement.

1 (f) *The disclosure by a dealer, and receipt and acknowledgment*
2 *by the consumer, of the information specified in subdivisions (d)*
3 *and (e) has no legal effect other than to demonstrate compliance*
4 *by the dealer with the requirements prescribed in those*
5 *subdivisions. Nothing in this article shall be interpreted to place*
6 *consumers in a less advantageous legal position for having*
7 *received or signed the disclosures provided pursuant to this article*
8 *than if no disclosure had been made.*

9 ~~11756. (a) A rental car company shall not offer a vehicle for~~
10 ~~rent unless the rental car company has obtained a recall database~~
11 ~~report within 30 days of the offer.~~

12 ~~(b) If a recall database report obtained by a rental car company~~
13 ~~indicates that a vehicle is subject to a Stop Sale—Stop Drive recall,~~
14 ~~the rental car company is prohibited from renting that vehicle until~~
15 ~~the recall repair has been made.~~

16 ~~(c) If a recall database report obtained by a rental car company~~
17 ~~that a vehicle is subject to a manufacturer's recall, the rental car~~
18 ~~company may rent the vehicle if all of the following are satisfied:~~

19 ~~(1) The rental car company discloses the manufacturer's recall~~
20 ~~by providing a copy of the recall database report to the consumer~~
21 ~~prior to rental.~~

22 ~~(2) The consumer signs the disclosure acknowledging that the~~
23 ~~vehicle is subject to a manufacturer's recall.~~

24 ~~11756. (a) No later than 48 hours after receiving a notice of~~
25 ~~a recall conducted pursuant to Sections 30118 to 30120, inclusive,~~
26 ~~of Title 49 of the United States Code, the National Highway Traffic~~
27 ~~and Motor Vehicle Safety Act (49 U.S.C. Sec. 30101, et seq.), or~~
28 ~~sooner if practicable, a rental car company is prohibited from~~
29 ~~renting or offering for rent any vehicle subject to that recall.~~

30 ~~(b) If a recall notification indicates that the remedy for the recall~~
31 ~~is not immediately available and specifies actions to temporarily~~
32 ~~repair the vehicle in a manner to eliminate the safety risk that~~
33 ~~prompted the recall, the rental car company, after having the~~
34 ~~repairs completed, may rent the vehicle. Once the remedy for the~~
35 ~~rental vehicle becomes available to the rental car company, the~~
36 ~~rental car company may not rent the vehicle until the vehicle has~~
37 ~~been repaired.~~

38 ~~11758. (a) The department may refuse transfer of registration~~
39 ~~of a motor vehicle under this code unless the transferee, in~~
40 ~~submitting an application to the department for title, includes with~~

1 the application a statement signed and dated by the transferor
2 acknowledging that all Stop Sale – Stop Drive recalls and
3 manufacturer’s recalls were disclosed to the transferee as provided
4 in subdivision (c).

5 (b) If the title to a motor vehicle issued to a transferor is in the
6 possession of a lienholder when the transferor transfers ownership
7 of the vehicle, the transferor may use a written power of attorney
8 in making the recall disclosure required under subdivision (c).

9 (c) A transferor transferring registration of a motor vehicle shall
10 disclose, in writing, to the transferee all Stop Sale – Stop Drive
11 recalls and manufacturer’s recalls. A person acquiring the vehicle
12 shall not accept a vehicle transfer and reassignment document
13 unless it is complete.

14 (d) Subdivisions (a), (b), and (c) do not apply to the transfer of
15 a motor vehicle to a dealer or wholesaler.

16 11760. (a) A vehicle manufacturer shall clearly and
17 conspicuously display on its Internet Web site and in all recall
18 notifications pursuant to Section 30118 of Title 49 of the United
19 States Code, the National Highway Traffic and Motor Vehicle
20 Safety Act (49 U.S.C. Sec. 30101, et seq.), whether a vehicle is
21 subject to a Stop Sale – Stop Drive recall.

22 (b) When a consumer seeks to repair a vehicle subject to a Stop
23 Sale – Stop Drive recall or manufacturer’s recall as identified in
24 a recall database report and the parts or procedures for the repair
25 are not yet available, the vehicle manufacturer shall, upon request
26 by the consumer, provide a rental or loaner vehicle to the consumer
27 at no cost to the consumer until the recall repair has been made.
28 *The consumer shall not be provided with a rental or loaner vehicle*
29 *that is subject to a Stop Sale – Stop Drive recall or a*
30 *manufacturer’s recall.*

31 (c) If a vehicle manufacturer requires a franchisee to provide a
32 rental or loaner vehicle to a consumer under subdivision (b), the
33 vehicle manufacturer shall adequately and fairly compensate the
34 franchisee for all costs incurred in providing a loaner or rental
35 vehicle to a consumer. For purposes of this paragraph, adequate
36 and fair compensation shall be the average daily rental amount
37 of ___ dollars (\$___) for each day a consumer uses a loaner or
38 rental vehicle.

39 (d) A vehicle manufacturer shall adequately and fairly
40 compensate each of its franchisees for all costs incurred in storing

1 vehicles with a Stop Sale – Stop Drive recall or manufacturer’s
2 recall in the franchisee’s possession if the parts or procedures are
3 not yet available to repair the recall of the vehicle. For purposes
4 of this paragraph, adequate and fair compensation shall be the
5 average daily amount of ____ dollars (\$____) for each day a
6 vehicle subject to a Stop Sale – Stop Drive recall or manufacturer’s
7 recall is in the franchisee’s possession, the parts or procedures are
8 not yet available to repair the recall of the vehicle, and the recall
9 repair has not been made.

10 11762. (a) This ~~chapter~~ *article* shall not create any legal duty
11 upon the dealer, franchisee, rental car company, or private seller
12 related to the accuracy, errors, or omissions contained in a recall
13 database report or any legal duty to provide information added to
14 a recall database after the dealer, franchisee, rental car company,
15 or private seller obtained the recall database report pursuant to
16 Sections 11754, 11756, and 11758. *Nothing in this article shall*
17 *affect any legal rights, claims, or remedies otherwise available*
18 *under law.*

19 (b) The provisions of this article are severable. If any provision
20 of this article or its application is held invalid, that invalidity shall
21 not affect other provisions or applications that can be given effect
22 without the invalid provision or application.

23 (c) This ~~chapter~~ *article* does not apply to the sale of a
24 recreational vehicle, a motorcycle, an off-highway motor vehicle
25 subject to identification under Section 38010, a vehicle sold by a
26 dismantler after being reported for dismantling pursuant to Section
27 11520, or a vehicle sold by a salvage pool after obtaining a salvage
28 pool certificate pursuant to Section 11515 or a nonrepairable
29 vehicle certificate issued pursuant to Section 11515.2.

30 (d) This ~~chapter~~ *article* shall become operative on July 1, 2016.

31 SEC. 8. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O