

AMENDED IN ASSEMBLY MARCH 27, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 192

Introduced by Assembly Member Cannella

January 25, 1995

An act to amend Section 11713.1 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 192, as amended, Cannella. Vehicles: dealers: unlawful acts.

(1) Existing law prohibits the holder of any vehicle dealer's license from doing any one or more of various prescribed acts. It is a misdemeanor to violate those provisions.

This bill would prohibit a dealer ~~doing business as an auction from failing to disclose in writing that the dealer is licensed by the department and is prohibited from adding buy and sell fees to a contract~~ *from advertising for sale asset seizure vehicles without disclosing the number of vehicles that are actually asset seizure vehicles and the number of vehicles that are in the dealer inventory. The bill would specify the requirements for a newspaper advertisement for the sale of an asset seizure vehicle.* Because a violation of that prohibition would be a misdemeanor, the bill would create a new crime and would thus impose a state-mandated local program.

(2) 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 11713.1 of the Vehicle Code is
2 amended to read:

3 11713.1. It is a violation of this code for the holder of
4 any dealer’s license issued under this article to do any of
5 the following:

6 (a) Advertise any specific vehicle for sale without
7 identifying the vehicle by either its vehicle identification
8 number or license number.

9 (b) Advertise the total price of a vehicle without
10 including all costs to the purchaser at time of sale, except
11 taxes, vehicle registration fees, certificate of compliance
12 or noncompliance fees not exceeding thirty-five dollars
13 (\$35) pursuant to any statute, finance charges, and any
14 dealer document preparation charge. The dealer
15 document preparation charge shall not exceed thirty-five
16 dollars (\$35).

17 (c) Exclude from the newspaper display
18 advertisement of a vehicle for sale that there will be
19 added to the advertised total price at the time of sale,
20 charges for sales tax, vehicle registration fees, the fee
21 charged by the state for the issuance of any certificate of
22 compliance or noncompliance pursuant to any statute,
23 finance charges, and any dealer document preparation
24 charge.

25 For purposes of this subdivision, “newspaper display
26 advertisement” means any advertisement in a
27 newspaper which is two or more newspaper columns in
28 width or one newspaper column in width and more than
29 seven inches in length.



1 (d) Represent the dealer document preparation
2 charge or certificate of compliance or noncompliance
3 fee, as a governmental fee.

4 (e) Fail to sell a vehicle to any person at the advertised
5 total price, exclusive of taxes, vehicle registration fees, the
6 fee charged by the state for the issuance of any certificate
7 of compliance or noncompliance pursuant to any statute,
8 finance charges, mobilehome escrow fees, the amount of
9 any city, county, or city and county imposed fee or tax for
10 a mobilehome, and any dealer document preparation
11 charge, which charges shall not exceed thirty-five dollars
12 (\$35) for the document preparation charge and
13 thirty-five dollars (\$35) for the certificate of compliance
14 or noncompliance pursuant to any statute, while the
15 vehicle remains unsold, unless the advertisement states
16 the advertised total price is good only for a specified time
17 and the time has elapsed.

18 (f) Advertise for sale or sell any new vehicle of a
19 line-make for which the dealer does not hold a franchise.

20 This subdivision does not apply to any transaction
21 involving a mobilehome, a recreational vehicle as defined
22 in Section 18010 of the Health and Safety Code, a
23 commercial coach as defined in Section 18001.8 of the
24 Health and Safety Code, an off-highway motor vehicle
25 subject to identification as defined in Section 38012, or a
26 commercial vehicle.

27 (g) Sell a park trailer, as specified in subdivision (b) of
28 Section 18010 of the Health and Safety Code, without
29 disclosing in writing to the purchaser that a park trailer
30 is required to be moved by a transporter or a licensed
31 manufacturer or dealer under a permit issued by the
32 Department of Transportation or a local authority with
33 respect to highways under their respective jurisdictions.

34 (h) Advertise free merchandise, gifts, or services
35 provided by a dealer contingent on the purchase of a
36 vehicle. The term “free” includes merchandise or
37 services offered for sale at a price less than the seller’s cost
38 of the merchandise or services.

39 (i) Advertise vehicles, and related goods or services, at
40 a specified dealer price, with the intent not to supply



1 reasonably expectable demand, unless the advertisement
2 discloses the number of vehicles in stock at the advertised
3 price. In addition, whether or not there are sufficient
4 vehicles in stock to supply a reasonably expectable
5 demand, when phrases such as “starting at,” “from,”
6 “beginning as low as,” or words of similar import are used
7 in reference to an advertised price, the advertisement
8 shall disclose the number of vehicles available at that
9 advertised price.

10 For purposes of this subdivision, in any newspaper
11 advertisement for a vehicle that is two model years old or
12 newer, the actual phrase that states the number of
13 vehicles in stock at the advertised price shall be (1)
14 printed in a type size that is at least equal to one-quarter
15 of the type size, and in the same style and color of type,
16 used for the advertised price, however, in no case shall the
17 phrase be printed in less than 8-point type size, and (2)
18 be disclosed immediately above, below, or beside the
19 advertised price without any intervening words, pictures,
20 marks, or symbols.

21 The disclosure required by this subdivision is in
22 addition to any other disclosure required by this code or
23 any regulation regarding identifying vehicles advertised
24 for sale.

25 (j) Use the term “rebate” or similar words such as
26 “cash back” in advertising the sale of a vehicle unless the
27 rebate is expressed in a specific dollar amount and is in
28 fact a rebate offered by the vehicle manufacturer or
29 distributor directly to the retail purchaser of the vehicle
30 or to the assignee of the retail purchaser.

31 (k) Require a person to pay a higher price for a vehicle
32 and related goods or services for receiving advertised
33 credit terms than the cash price the same person would
34 have to pay to purchase the same vehicle and related
35 goods or services. For the purpose of this subdivision,
36 “cash price” has the meaning as defined in subdivision
37 (e) of Section 2981 of the Civil Code.

38 (l) Advertise a guaranteed trade-in allowance unless
39 the guarantee is provided by the manufacturer or
40 distributor.



1 (m) Misrepresent the authority of a salesperson,
2 representative, or agent to negotiate the final terms of a
3 transaction.

4 (n) (1) Advertise that the selling price of a vehicle is
5 above, below, or at either of the following:

6 (A) The manufacturer's or distributor's invoice price
7 to a dealer.

8 (B) A dealer's cost.

9 (2) This subdivision does not apply to either of the
10 following:

11 (A) Any communication occurring during face-to-face
12 negotiations for the purchase of a specific vehicle.

13 (B) Any communication between a dealer and a
14 prospective commercial purchaser that is not
15 disseminated to the general public. For purposes of this
16 subparagraph, a "commercial purchaser" means a dealer,
17 lessor, lessor-retailer, manufacturer, remanufacturer,
18 distributor, financial institution, governmental entity, or
19 person who purchases 10 or more vehicles during a year.

20 (o) Violate any law prohibiting bait and switch
21 advertising, including, but not limited to, the guides
22 against bait advertising set forth in Part 238
23 (commencing with Section 238) of Title 16 of the Code of
24 Federal Regulations, as those regulations read on January
25 1, 1988.

26 (p) Make any untrue or misleading statement
27 indicating that a vehicle is equipped with all the factory
28 installed optional equipment the manufacturer offers,
29 including, but not limited to, a false statement that a
30 vehicle is "fully factory equipped."

31 (q) Affix on any new vehicle a supplemental price
32 sticker containing a price that represents the dealer's
33 asking price which exceeds the manufacturer's suggested
34 retail price unless all of the following occur:

35 (1) The supplemental sticker clearly and
36 conspicuously discloses in the largest print appearing on
37 the sticker, other than the print size used for the dealer's
38 name, that the supplemental sticker price is the dealer's
39 asking price, or words of similar import, and that it is not
40 the manufacturer's suggested retail price.



1 (2) The supplemental sticker clearly and
2 conspicuously discloses the manufacturer's suggested
3 retail price.

4 (3) The supplemental sticker lists each item which is
5 not included in the manufacturer's suggested retail price,
6 and discloses the additional price of each item. If the
7 supplemental sticker price is greater than the sum of the
8 manufacturer's suggested retail price and the price of the
9 items added by the dealer, then the supplemental sticker
10 price shall set forth that difference and describe it as
11 "added mark-up."

12 (r) Advertise any underselling claim, such as "we have
13 the lowest prices" or "we will beat any dealer's price,"
14 unless the dealer has conducted a recent survey showing
15 that the dealer sells its vehicles at lower prices than any
16 other licensee in its trade area and maintains records to
17 adequately substantiate the claims. The substantiating
18 records shall be made available to the department upon
19 request.

20 (s) Advertise any incentive offered by the
21 manufacturer or distributor if the dealer is required to
22 contribute to the cost of the incentive as a condition of
23 participating in the incentive program, unless the dealer
24 discloses in a clear and conspicuous manner that dealer
25 participation may affect consumer cost.

26 For purposes of this subdivision, "incentive" means
27 anything of value offered to induce people to purchase a
28 vehicle, including, but not limited to, discounts, savings
29 claims, rebates, below-market finance rates, and free
30 merchandise or services.

31 (t) Display or offer for sale any used vehicle unless
32 there is affixed to the vehicle the Federal Trade
33 Commission's Buyer's Guide as required by Part 455 of
34 Title 16 of the Code of Federal Regulations.

35 (u) Fail to disclose in writing to the franchisor of a new
36 motor vehicle dealer the name of the purchaser, date of
37 sale, and the vehicle identification number of each new
38 motor vehicle sold of the line-make of that franchisor, or
39 intentionally submit to that franchisor a false name for the
40 purchaser or false date for the date of sale.



1 (v) Enter into a contract for the retail sale of a motor
2 vehicle unless the contract clearly and conspicuously
3 discloses whether the vehicle is being sold as a new
4 vehicle or a used vehicle, as defined in this code.

5 (w) Use a simulated check, as defined in subdivision
6 (a) of Section 22433 of the Business and Professions Code,
7 in an advertisement for the sale or lease of a vehicle.

8 (x) Fail to disclose, in a clear and conspicuous manner
9 in at least 10-point bold type on the face of any contract
10 for the retail sale of a new motor vehicle that this
11 transaction is, or is not, subject to a fee received by an
12 autobroker from the selling new motor vehicle dealer,
13 and the name of the autobroker, if applicable.

14 ~~(y) If the dealer is doing business as an auction, fail to~~
15 ~~disclose in writing that the dealer is licensed by the~~
16 ~~department and is prohibited from adding buy and sell~~
17 ~~fees to a contract.~~

18 (y) *Advertise for sale asset seizure vehicles without*
19 *disclosing the number of vehicles that are actually asset*
20 *seizure vehicles and the number of vehicles that are in*
21 *the dealer inventory.*

22 *For purposes of this subdivision, in any newspaper*
23 *advertisement for the sale of an asset seizure vehicle, a*
24 *statement of the number of vehicles in stock shall (1) be*
25 *printed in a type size that is at least equal to one-quarter*
26 *of the type size, and in the same style and color of type*
27 *used for the advertised price, however, in no case shall the*
28 *statement be printed in less than 8-point type size, and*
29 *(2) appear immediately above, below, or beside the*
30 *advertised price without any intervening words, pictures,*
31 *marks or symbols.*

32 SEC. 2. No reimbursement is required by this act
33 pursuant to Section 6 of Article XIII B of the California
34 Constitution because the only costs that may be incurred
35 by a local agency or school district will be incurred
36 because this act creates a new crime or infraction,
37 eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section
39 17556 of the Government Code, or changes the definition



1 of a crime within the meaning of Section 6 of Article
2 XIII B of the California Constitution.
3 Notwithstanding Section 17580 of the Government
4 Code, unless otherwise specified, the provisions of this act
5 shall become operative on the same date that the act
6 takes effect pursuant to the California Constitution.

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