

AMENDED IN ASSEMBLY APRIL 14, 1998
AMENDED IN ASSEMBLY MARCH 24, 1998
AMENDED IN SENATE JANUARY 5, 1998

SENATE BILL

No. 559

Introduced by Senator Wright

February 24, 1997

An act to amend Sections 11713 and 24007 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 559, as amended, Wright. Vehicles: dealers.

Existing law regulates various activities of motor vehicle dealers, including prohibiting the delivery of a vehicle, following its sale, when the vehicle is to be operated on California highways, if the vehicle does not meet all of the equipment requirements provided by statute.

This bill would exclude the sale of a leased vehicle to the lessee from the prohibition if the lessee is in possession of the vehicle immediately prior to the time of the sale.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 11713 of the Vehicle Code is
2 amended to read:
3 11713. No holder of any license issued under this
4 article shall do any of the following:

1 (a) Make or disseminate, or cause to be made or
2 disseminated, before the public in this state, in any
3 newspaper or other publication, or any advertising
4 device, or by public outcry or proclamation, or in any
5 other manner or means whatever, any statement which
6 is untrue or misleading and which is known, or which by
7 the exercise of reasonable care should be known, to be
8 untrue or misleading; or to so make or disseminate, or
9 cause to be so disseminated, any statement as part of a
10 plan or scheme with the intent not to sell any vehicle or
11 service so advertised at the price stated therein, or as so
12 advertised.

13 (b) (1) (A) Advertise or offer for sale or exchange in
14 any manner, any vehicle not actually for sale at the
15 premises of the dealer or available to the dealer directly
16 from the manufacturer or distributor of the vehicle at the
17 time of the advertisement or offer. However, a dealer
18 who has been issued an autobroker's endorsement to his
19 or her dealer's license may advertise his or her service of
20 arranging or negotiating the purchase of a new motor
21 vehicle from a franchised new motor vehicle dealer and
22 may specify the line-makes and models of those new
23 vehicles. Autobrokering service advertisements may not
24 advertise the price or payment terms of any vehicle and
25 shall disclose that the advertiser is an autobroker or auto
26 buying service, and shall clearly and conspicuously state
27 the following: "All new cars arranged for sale are subject
28 to price and availability from the selling franchised new
29 car dealer."

30 (B) As to printed advertisements, the disclosure
31 statement required by subparagraph (A) shall be printed
32 in not less than 10-point bold type size and shall be
33 textually segregated from the other portions of the
34 printed advertisement.

35 (2) Notwithstanding subparagraph (A), classified
36 advertisements for autobrokering services that measure
37 two column inches or less are exempt from the disclosure
38 statement in subparagraph (A) pertaining to price and
39 availability.



1 (3) Radio advertisements of a duration of less than 11
2 seconds that do not reference specific line-makes or
3 models of motor vehicles are exempt from the disclosure
4 statement required in subparagraph (A).

5 (c) Fail, within 48 hours, in writing to withdraw any
6 advertisement of a vehicle that has been sold or
7 withdrawn from sale.

8 (d) Advertise or represent a vehicle as a new vehicle
9 if the vehicle is a used vehicle.

10 (e) Engage in the business for which the licensee is
11 licensed without having in force and effect a bond as
12 required by this article.

13 (f) Engage in the business for which the dealer is
14 licensed without at all times maintaining an established
15 place of business as required by this code.

16 (g) Include, as an added cost to the selling price of a
17 vehicle, an amount for licensing or transfer of title of the
18 vehicle, which is not due to the state unless, prior to the
19 sale, that amount has been paid by a dealer to the state in
20 order to avoid penalties that would have accrued because
21 of late payment of the fees. However, a dealer may collect
22 from the second purchaser of a vehicle a prorated fee
23 based upon the number of months remaining in the
24 registration year for that vehicle, if the vehicle had been
25 previously sold by the dealer and the sale was
26 subsequently rescinded and all the fees that were paid, as
27 required by this code and Chapter 2 (commencing with
28 Section 10751) of Division 2 of the Revenue and Taxation
29 Code, were returned to the first purchaser of the vehicle.

30 (h) Employ any person as a salesperson who has not
31 been licensed pursuant to Article 2 (commencing with
32 Section 11800), and whose license is not displayed on the
33 premises of the dealer as required by Section 11812, or
34 willfully fail to notify the department by mail within 10
35 days of the employment or termination of employment
36 of a salesperson.

37 (i) Deliver, following the sale, a vehicle for operation
38 on California highways, if the vehicle does not meet all of
39 the equipment requirements of Division 12
40 (commencing with Section 24000). This subdivision does



1 not apply to the sale of a leased vehicle to the lessee if the
2 lessee is in possession of the vehicle immediately prior to
3 the time of the sale *and the vehicle is registered in this*
4 *state.*

5 (j) Use, or permit the use of, the special plates assigned
6 to him or her for any purpose other than as permitted by
7 Section 11715.

8 (k) Advertise or otherwise represent, or knowingly
9 allow to be advertised or represented on behalf of, or at
10 the place of business of, the licenseholder that no
11 downpayment is required in connection with the sale of
12 a vehicle when a downpayment is in fact required and the
13 buyer is advised or induced to finance the downpayment
14 by a loan in addition to any other loan financing the
15 remainder of the purchase price of the vehicle.

16 (l) Participate in the sale of a vehicle required to be
17 reported to the Department of Motor Vehicles under
18 Section 5900 or 5901 without making the return and
19 payment of the full sales tax due and required by Section
20 6451 of the Revenue and Taxation Code.

21 (m) Permit the use of the dealer's license, supplies, or
22 books by any other person for the purpose of permitting
23 that person to engage in the purchase or sale of vehicles
24 required to be registered under this code, or permit the
25 use of the dealer's license, supplies, or books to operate a
26 branch location to be used by any other person, whether
27 or not the licensee has any financial or equitable interest
28 or investment in the vehicles purchased or sold by, or the
29 business of, or branch location used by, the other person.

30 (n) Violate any provision of Article 10 (commencing
31 with Section 28050) of Chapter 5 of Division 12.

32 (o) Sell a previously unregistered vehicle without
33 disclosing in writing to the purchaser the date on which
34 any manufacturer's or distributor's warranty
35 commenced.

36 (p) Accept a purchase deposit relative to the sale of a
37 vehicle, unless the vehicle is present at the premises of
38 the dealer or available to the dealer directly from the
39 manufacturer or distributor of the vehicle at the time the
40 dealer accepts the deposit. Purchase deposits accepted by



1 an autobroker when brokering a retail sale shall be
2 governed by Sections 11736 and 11737.

3 (q) Consign for sale to another dealer a new vehicle.

4 (r) Display a vehicle for sale at a location other than an
5 established place of business authorized by the
6 department for that dealer or display a new motor vehicle
7 at the business premises of another dealer registered as an
8 autobroker. This subdivision does not apply to the display
9 of a vehicle pursuant to subdivision (b) of Section 11709
10 or the demonstration of the qualities of a motor vehicle
11 by way of a test drive.

12 SEC. 2. Section 24007 of the Vehicle Code is amended
13 to read:

14 24007. (a) (1) No dealer or person holding a retail
15 seller's permit shall sell a new or used vehicle which is not
16 in compliance with this code and departmental
17 regulations adopted pursuant to this code, unless the
18 vehicle is sold to another dealer; ~~sold to a lessee who is in~~
19 ~~possession of the vehicle immediately prior to the time of~~
20 ~~the sale~~, sold for the purpose of being legally wrecked or
21 dismantled, or sold exclusively for off-highway use.

22 (2) Paragraph (1) does not apply to any vehicle sold by
23 either (A) a dismantler after being reported for
24 dismantling pursuant to Section 11520 or (B) a salvage
25 pool after obtaining a salvage certificate pursuant to
26 Section 11515 or a nonrepairable vehicle certificate issued
27 pursuant to Section 11515.2.

28 (3) *Notwithstanding paragraph (1), the equipment*
29 *requirements of this division do not apply to the sale of a*
30 *leased vehicle by a dealer to a lessee if the lessee is in*
31 *possession of the vehicle immediately prior to the time of*
32 *the sale and the vehicle is registered in this state.*

33 (b) (1) Except as provided in Section 24007.5, no
34 person shall sell, or offer or deliver for sale, to the ultimate
35 purchaser, ~~including, but not limited to, a lessee~~
36 ~~described in paragraph (1) of subdivision (a)~~, or to any
37 subsequent purchaser a new or used motor vehicle, as
38 those terms are defined in Chapter 2 (commencing with
39 Section 39010) of Part 1 of Division 26 of the Health and
40 Safety Code, subject to Part 5 (commencing with Section



1 43000) of that Division 26 which is not in compliance with
2 that Part 5 and the rules and regulations of the State Air
3 Resources Board, unless the vehicle is sold to a dealer or
4 sold for the purpose of being legally wrecked or
5 dismantled.

6 (2) Prior to or at the time of delivery for sale, the seller
7 shall provide the purchaser a valid certificate of
8 compliance or certificate of noncompliance, as
9 appropriate, issued in accordance with Section 44015 of
10 the Health and Safety Code.

11 (3) Paragraph (2) does not apply to any vehicle whose
12 transfer of ownership and registration is described in
13 subdivision (d) of Section 4000.1.

14 (4) Paragraphs (1) and (2) do not apply to any vehicle
15 sold by either (A) a dismantler after being reported for
16 dismantling pursuant to Section 11520 or (B) a salvage
17 pool after obtaining a salvage certificate pursuant to
18 Section 11515 or a nonrepairable vehicle certificate issued
19 pursuant to Section 11515.2.

20 (c) (1) With each application for initial registration of
21 a new motor vehicle or transfer of registration of a motor
22 vehicle subject to Part 5 (commencing with Section
23 43000) of Division 26 of the Health and Safety Code, a
24 dealer, the purchaser, or his or her authorized
25 representative, shall transmit to the Department of
26 Motor Vehicles a valid certificate of compliance or
27 noncompliance, as appropriate, issued in accordance
28 with Section 44015 of the Health and Safety Code.

29 (2) Notwithstanding paragraph (1) of this subdivision,
30 with respect to new vehicles certified pursuant to
31 Chapter 2 (commencing with Section 43100) of Part 5 of
32 Division 26 of the Health and Safety Code, a dealer may
33 transmit, in lieu of a certificate of compliance, a
34 statement, in a form and containing information deemed
35 necessary and appropriate by the Director of Motor
36 Vehicles and the Executive Officer of the State Air
37 Resources Board, to attest to the vehicle's compliance
38 with that Chapter 2. The statement shall be certified



1 under penalty of perjury, and shall be signed by the
2 dealer or the dealer's authorized representative.

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