

AMENDED IN SENATE APRIL 12, 1999

AMENDED IN SENATE APRIL 5, 1999

SENATE BILL

No. 974

Introduced by Senator Speier

February 26, 1999

An act to amend Section 11713.11 of, and to add Section 11713.14 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 974, as amended, Speier. Vehicle auction.

Existing law prohibits a licensed vehicle dealer, when advertising one or more specific auction events, from advertising that a vehicle will be auctioned to the public unless specified information pertaining to the vehicle and the auction is disclosed in the advertisement. Existing law also prohibits the advertisement of vehicles seized by public agencies or authorities unless specific additional information is disclosed in the advertisement, and provides that it is unlawful for an auctioning dealer to fail to provide specified information on the day of the auction regarding a vehicle seized by a public agency or authority.

This bill would apply the above restrictions and prohibition to a dealer when conducting an auction of vehicles to the public.

The bill would prohibit including in the total price of an auctioned vehicle any costs to the purchaser at the ~~time~~ *completion* of the sale, except as specified, and would prohibit

the imposition of certain purchaser transaction fees that are not included in the minimum auction bid price, *as defined*.

The bill would prohibit setting a minimum auction bid price for any vehicle to be auctioned unless the minimum bid price is prominently displayed on the vehicle, is published, as specified, and is verbally announced prior to the acceptance of any bids on the vehicle.

The bill would specifically prohibit a dealer conducting an auction from failing to comply with or violating certain provisions of the Vehicle Code, Civil Code, Commercial Code, or Penal Code pertaining to auctions or any law administered by the State Board of Equalization relating to the auctioneering business.

Because a violation of these provisions is a misdemeanor under existing law, the bill would impose a state-mandated local program by expanding the scope of that crime.

The bill would grant a person who purchases a vehicle sold through a dealer at an auction of vehicles open to the general public the same rights and remedies against ~~that~~ *the dealer who conducts the auction sale* as ~~the person has in an action against a dealer who owns and sells vehicles if that dealer were an owner and seller of the auctioned vehicle~~. The bill would provide that the purchaser's rights or remedies are in addition to any rights or remedies he or she may otherwise have against the ~~seller~~-owner of a vehicle sold at a public auto auction. The bill would prohibit waiving or modifying an agreement or by recharacterization of the transaction in order to avoid the provisions set forth in this paragraph.

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. The Legislature hereby finds and
2 declares all of the following:

3 (a) Motor vehicles have been sold to dealers and other
4 commercial purchasers through wholesale auto auctions
5 for many years. In recent years, motor vehicle auctions
6 that are open to members of the general public have
7 become common.

8 (b) Consumers that are induced through
9 advertisement and other means to attend and bid on
10 vehicles offered for sale at public auto auctions generally
11 lack the sophistication of dealers and other commercial
12 purchasers who attend and purchase motor vehicles at
13 auctions.

14 (c) Current Vehicle Code provisions governing the
15 licensure of persons that sell motor vehicles at auctions
16 are primarily designed to regulate wholesale motor
17 vehicle auctions and are inadequate to properly regulate
18 persons that conduct public auto auctions or protect
19 consumers who purchase vehicles at public auto auctions.

20 (d) It is the intent of the Legislature in enacting this
21 act to strengthen the ability of the Department of Motor
22 Vehicles to properly regulate persons that conduct public
23 auto auctions and to protect unsophisticated consumers
24 that are induced to attend and bid on motor vehicles sold
25 at these public auto auctions.

26 SEC. 2. Section 11713.11 of the Vehicle Code is
27 amended to read:

28 11713.11. No holder of a dealer's license shall do any
29 of the following when conducting an auction of vehicles
30 to the public:

31 (a) Advertise that a vehicle will be auctioned to the
32 public unless all of the following information is clearly and
33 conspicuously disclosed in the advertisement:

34 (1) The date or the day of the week of the public
35 auction, or if subdivision (b) applies to the auction, the
36 date of the public auction.

37 (2) The location of the public auction.



1 (3) Whether a fee will be charged to attend the
2 auction *and the amount of that fee.*

3 (4) The name and dealer number of the auctioning
4 dealer.

5 (b) If vehicles seized by a federal, state, or local public
6 agency or authority are being advertised, advertise that
7 a vehicle will be auctioned to the public unless, in
8 addition to the information required by subdivision (a),
9 the following information is clearly and conspicuously
10 disclosed in the advertisement:

11 (1) A good faith estimate of the number of vehicles to
12 be auctioned at that date.

13 (2) A good faith estimate of the number of vehicles
14 seized by a federal, state, or local public agency or
15 authority to be auctioned at that date.

16 (c) Fail, on the day of auction, to identify each vehicle
17 seized by a federal, state, or local public agency or
18 authority, either in a printed catalog or orally, before
19 bidding begins on the vehicle.

20 (d) Include in the total price of an auctioned vehicle
21 any costs to the purchaser at the ~~time~~ *completion* of sale,
22 except the accepted auction bid price, taxes, vehicle
23 registration fees, certificate of compliance or
24 noncompliance fee not exceeding forty-five dollars (\$45),
25 and any dealer document preparation charge not
26 exceeding forty-five dollars (\$45). The imposition of a
27 bidder's fee, buyer's fee, buyer's premium, or any other
28 type of purchaser transaction fee not included in a
29 minimum auction bid price is prohibited.

30 (e) Set a minimum auction bid price for any vehicle to
31 be auctioned unless the minimum *auction* bid price is
32 prominently displayed on the vehicle, is published in any
33 auction catalog or similar sales material disseminated to
34 persons who attend the auction, and is verbally
35 announced to bidders immediately prior to the
36 acceptance of any bids on the vehicle.

37 (f) Fail to comply with or violate this chapter, Title
38 2.95 (commencing with Section 1812.600) of Part 4 of
39 Division 3 of the Civil Code, Section 2328 of the
40 Commercial Code, or Section 535 of the Penal Code, or



1 any law administered by the State Board of Equalization,
2 relating to the auctioneering business, including, but not
3 limited to, sales and the transfer of title of goods.

4 (g) *For purposes of this section, “minimum auction*
5 *bid price” is the minimum dollar amount established by*
6 *the owner of a vehicle to be sold at auction with reserve*
7 *that the auctioning dealer is authorized to accept from a*
8 *bidder to complete a sale.*

9 SEC. 3. Section 11713.14 is added to the Vehicle Code,
10 to read:

11 11713.14. Notwithstanding any other provision of law,
12 a person who purchases a vehicle that is sold through a
13 dealer at an auction of vehicles open to the general public
14 shall have the same rights and remedies against ~~that~~
15 ~~dealer as the person has in an action against a dealer who~~
16 ~~owns and sells vehicles~~ *the dealer who conducts the*
17 *auction sale as if that dealer were an owner and seller of*
18 *the auctioned vehicle.* The purchaser’s rights and
19 remedies are in addition to any right or remedy he or she
20 may have against ~~the seller~~ *an owner* of a vehicle sold at
21 a public auto auction. This section may not be waived or
22 modified by an agreement or by a recharacterization of
23 the sales transaction.

24 SEC. 4. No reimbursement is required by this act
25 pursuant to Section 6 of Article XIII B of the California
26 Constitution because the only costs that may be incurred
27 by a local agency or school district will be incurred
28 because this act creates a new crime or infraction,
29 eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section
31 17556 of the Government Code, or changes the definition
32 of a crime within the meaning of Section 6 of Article
33 XIII B of the California Constitution.

