

AMENDED IN SENATE APRIL 27, 1999

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 additionally require disclosing in the advertisement whether a buyer's fee, as defined, will be charged to a purchaser, in addition to the accepted auction

bid price, and, if the fee is a set amount, the dollar amount of that fee, and if the buyer's fee is not a set amount, the advertisement shall state the formula or percentage used to calculate the fee.

The bill would prohibit including in the total price of an auctioned vehicle any costs to the purchaser at the 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 prohibit a holder of a dealers license, when conducting an auction, from charging a buyer's fee unless that dealer delivers to any person permitted to submit bids, and at a time prior to accepting bids from that person, a specified disclosure statement that is signed by the person.

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 the dealer who conducts the auction sale as 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 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:



1 11713.11. No holder of a dealer's license shall do any
2 of the following when conducting an auction of vehicles
3 to the public:

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

7 (1) The date or the day of the week of the public
8 auction, or if subdivision (b) applies to the auction, the
9 date of the public auction.

10 (2) The location of the public auction.

11 (3) Whether a fee will be charged to attend the
12 auction and the amount of that fee.

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

15 (5) *Whether a buyer's fee will be charged to a*
16 *purchaser, in addition to the accepted auction bid price,*
17 *and, if the fee is a set amount, the dollar amount of that*
18 *fee. If the buyer's fee is not a set amount, the*
19 *advertisement shall state the formula or percentage used*
20 *to calculate the fee.*

21 (b) If vehicles seized by a federal, state, or local public
22 agency or authority are being advertised, advertise that
23 a vehicle will be auctioned to the public unless, in
24 addition to the information required by subdivision (a),
25 the following information is clearly and conspicuously
26 disclosed in the advertisement:

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

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

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

36 (d) Include in the total price of an auctioned vehicle
37 any costs to the purchaser at the completion of sale,
38 except the accepted auction bid price, taxes, vehicle
39 registration fees, certificate of compliance or
40 noncompliance fee not exceeding forty-five dollars (\$45),



1 ~~and any dealer document preparation charge not~~
2 ~~exceeding forty-five dollars (\$45), and any buyer's fee.~~
3 ~~The imposition of a bidder's fee, buyer's fee, buyer's~~
4 ~~premium, or any other type of purchaser transaction fee~~
5 ~~not included in a minimum auction bid price is~~
6 ~~prohibited.~~

7 ~~(e) Set a minimum auction bid price for any vehicle to~~
8 ~~be auctioned unless the minimum auction bid price is~~
9 ~~prominently displayed on the vehicle, is published in any~~
10 ~~auction catalog or similar sales material disseminated to~~
11 ~~persons who attend the auction, and is verbally~~
12 ~~announced to bidders immediately prior to the~~
13 ~~acceptance of any bids on the vehicle.~~

14 *(e) Charge a buyer's fee, unless the dealer conducting*
15 *the auction delivers to any person permitted to submit*
16 *bids, and at a time prior to accepting any bids from that*
17 *person, a disclosure statement required by this*
18 *subdivision and signed by that person. The disclosure*
19 *statement, if the buyer's fee is a set amount, shall disclose*
20 *the amount of the fee, or if the buyer's fee is not a set*
21 *amount, disclose the formula or percentage used to*
22 *calculate the fee. The disclosure statement shall be on a*
23 *separate 8½ x 11 inch sheet of paper. Except for the*
24 *information set forth in this subdivision, the disclosure*
25 *statement shall not contain any other text, except as*
26 *necessary to identify the dealer conducting the auction*
27 *sale and to disclose the amount, percentage, or formula*
28 *used to calculate the buyer's fee, and to provide for the*
29 *date and the person's acknowledgment of receipt. The*
30 *heading shall be printed in no smaller than 24-point bold*
31 *type and the text of the statement shall be printed in no*
32 *smaller than 12-point type and shall read substantially as*
33 *follows:*

34
35 **BUYER'S FEE REQUIRED**

36
37 *A buyer's fee is an amount charged by the auctioning dealer for*
38 *conducting the auction sale. If your bid price is accepted as the*
39 *winning bid on any vehicle, you will be charged a buyer's fee in*
40 *addition to the accepted bid price.*

1 a vehicle sold at a public auto auction. This section may
2 not be waived or modified by an agreement or by a
3 recharacterization of the sales transaction.

4 SEC. 4. No reimbursement is required by this act
5 pursuant to Section 6 of Article XIII B of the California
6 Constitution because the only costs that may be incurred
7 by a local agency or school district will be incurred
8 because this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition
12 of a crime within the meaning of Section 6 of Article
13 XIII B of the California Constitution.

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