

**Introduced by Senator Speier**

February 25, 2000

---

---

An act to amend Sections 11614 and 11713.1 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 2060, as amended, Speier. Vehicles: dealers: licenses.

(1) Existing law makes it unlawful for a vehicle dealer, as defined, to, among other things, fail to include in a newspaper advertisement of a vehicle for sale that certain charges will be added to the advertised total price at the time of sale.

This bill would expand this prohibition to include advertisements in magazines, direct mail publications, circulars, or ~~any other print medium~~ *handbills*, and advertisements ~~transmitted through or displayed on any computer network~~ *on any screen page of a lessor-retailer's or dealer's Internet website, as defined, that displays the price of a vehicle offered for sale.* The bill would thus impose a state-mandated local program by expanding the definition of an existing crime.

(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 11614 of the Vehicle Code is  
 2 amended to read:  
 3 11614. No lessor-retailer licensed under this chapter  
 4 may do any of the following in connection with any  
 5 activity for which this license is required:  
 6 (a) Make or disseminate, or cause to be made or  
 7 disseminated, before the public in this state, in any  
 8 newspaper or other publication, or any advertising  
 9 device, or by oral representation, or in any other manner  
 10 or means whatever, any statement that is untrue or  
 11 misleading and that is known, or which by the exercise of  
 12 reasonable care should be known, to be untrue or  
 13 misleading; or make or disseminate, or cause to be made  
 14 or disseminated, any statement as part of a plan or scheme  
 15 with the intent not to sell any vehicle, or service so  
 16 advertised, at the price stated therein, or as so advertised.  
 17 (b) Advertise, or offer for sale in any manner, any  
 18 vehicle not actually for sale at the premises of the  
 19 lessor-retailer or available within a reasonable time to the  
 20 lessor-retailer at the time of the advertisement or offer.  
 21 (c) Fail within 48 hours to give, in writing, notification  
 22 to withdraw any advertisement of a vehicle that has been  
 23 sold or withdrawn from sale.  
 24 (d) Advertise any specific vehicle for sale without  
 25 identifying the vehicle by either its vehicle identification  
 26 number or license number.  
 27 (e) Advertise the total price of a vehicle without  
 28 including all costs to the purchaser at the time of delivery  
 29 at the lessor-retailer’s premises, except sales tax, vehicle  
 30 registration fees, finance charges, certificate of  
 31 compliance or noncompliance fees not exceeding  
 32 thirty-five dollars (\$35) pursuant to any statute, and any  
 33 dealer documentary preparation charge. The dealer  
 34 documentary charge shall not exceed thirty-five dollars  
 35 (\$35).



1 (f) (1) Fail to disclose, in an advertisement of a  
2 vehicle for sale, that there will be added to the advertised  
3 total price, at the time of sale, charges for sales tax, vehicle  
4 registration fees, the fee charged by the state for the  
5 issuance of any certificate of compliance or  
6 noncompliance pursuant to any statute, finance charges,  
7 or any dealer documentary preparation charge.

8 (2) For purposes of paragraph (1), “advertisement”  
9 means any advertisement in a newspaper, magazine,  
10 direct mail publication, or ~~any other print medium~~  
11 *handbill* that is two or more columns in width or one  
12 column in width and more than seven inches in length,  
13 or ~~any advertisement transmitted through or displayed~~  
14 ~~on a computer network.~~ *on any screen page of a*  
15 *lessor-retailer’s website that displays the price of a vehicle*  
16 *offered for sale on the Internet, as that term is defined in*  
17 *paragraph (6) of subdivision (e) of Section 17538 of the*  
18 *Business and Professions Code.*

19 (g) Advertise or otherwise represent, or knowingly  
20 allow to be advertised or represented on the  
21 lessor-retailer’s behalf or at the lessor-retailer’s place of  
22 business, that no downpayment is required in connection  
23 with the sale of a vehicle when a downpayment is in fact  
24 required and the buyer is advised or induced to finance  
25 the downpayment by a loan in addition to any other loan  
26 financing the remainder of the purchase price of the  
27 vehicle.

28 (h) Refuse to sell a vehicle to any person at the  
29 advertised total price, exclusive of sales tax, vehicle  
30 registration fees, finance charges, certificate of  
31 compliance or noncompliance pursuant to any statute,  
32 and any dealer documentary preparation charge, which  
33 charges shall not exceed thirty-five dollars (\$35) for the  
34 documentary preparation charge and thirty-five dollars  
35 (\$35) for the certificate of compliance or noncompliance  
36 pursuant to any statute, while the vehicle remains unsold  
37 or unleased, unless the advertisement states the  
38 advertised total price is good only for a specified time and  
39 the time has elapsed.



1 (i) Engage in the business for which the licensee is  
2 licensed without having in force and effect a bond  
3 required by Section 11612.

4 (j) Engage in the business for which the lessor-retailer  
5 is licensed without at all times maintaining a principal  
6 place of business and any branch office location required  
7 by this chapter.

8 (k) Permit the use of the lessor-retailer license,  
9 supplies, or books by any other person for the purpose of  
10 permitting that person to engage in the sale of vehicles  
11 required to be registered under this code, or to permit the  
12 use of the lessor-retailer license, supplies, or books to  
13 operate a branch office location to be used by any other  
14 person, if, in either situation, the licensee has no financial  
15 or equitable interest or investment in the vehicles sold by,  
16 or the business of, or branch office location used by, the  
17 person, or has no interest or investment other than  
18 commissions, compensations, fees, or any other thing of  
19 value received for the use of the lessor-retailer license,  
20 supplies, or books to engage in the sale of vehicles.

21 (l) Violate any provision of Article 10 (commencing  
22 with Section 28050) of Chapter 5 of Division 12.

23 (m) Represent the dealer documentary preparation  
24 charge, or certificate of compliance or noncompliance  
25 fee, as a governmental fee.

26 (n) Advertise free merchandise, gifts, or services  
27 provided by a lessor-retailer contingent on the purchase  
28 of a vehicle. “Free” includes merchandise or services  
29 offered for sale at a price less than the lessor-retailer’s cost  
30 of the merchandise or services.

31 (o) Advertise vehicles and related goods or services  
32 with the intent not to supply reasonably expectable  
33 demand, unless the advertisement discloses a limitation  
34 of quantity.

35 (p) Use the term “rebate” or similar words such as  
36 “cash back” in advertising the sale of a vehicle.

37 (q) Require a person to pay a higher price for a vehicle  
38 and related goods or services for receiving advertised  
39 credit terms than the cash price the same person would  
40 have to pay to purchase the same vehicle and related



1 goods or services. For the purpose of this subdivision,  
2 “cash price” has the meaning as defined in subdivision  
3 (e) of Section 2981 of the Civil Code.

4 (r) Misrepresent the authority of a representative or  
5 agent to negotiate the final terms of a transaction.

6 (s) Violate any law prohibiting bait and switch  
7 advertising, including, but not limited to, the guides  
8 against bait advertising set forth in Part 238 of Title 16 of  
9 the Code of Federal Regulations, as those regulations  
10 read on January 1, 1988.

11 (t) Make any untrue or misleading statement  
12 indicating that a vehicle is equipped with all the factory  
13 installed optional equipment the manufacturer offers,  
14 including, but not limited to, a false statement that a  
15 vehicle is “fully factory equipped.”

16 (u) Advertise any underselling claim, such as “we  
17 have the lowest prices” or “we will beat any dealer’s  
18 price,” unless the lessor-retailer has conducted a recent  
19 survey showing that the lessor-retailer sells its vehicles at  
20 lower prices than any other licensee in its trade area and  
21 maintains records to adequately substantiate the claim.  
22 The substantiating records shall be made available to the  
23 department upon request.

24 (v) To display or offer for sale any used vehicle unless  
25 there is affixed to the vehicle the Federal Trade  
26 Commission’s Buyer’s Guide as required by Part 455 of  
27 Title 16 of the Code of Federal Regulations.

28 SEC. 2. Section 11713.1 of the Vehicle Code is  
29 amended to read:

30 11713.1. It is a violation of this code for the holder of  
31 any dealer’s license issued under this article to do any of  
32 the following:

33 (a) Advertise any specific vehicle for sale without  
34 identifying the vehicle by either its vehicle identification  
35 number or license number.

36 (b) Advertise the total price of a vehicle without  
37 including all costs to the purchaser at time of sale, except  
38 taxes, vehicle registration fees, emission testing fees not  
39 exceeding fifty dollars (\$50), actual fees charged for  
40 certificates pursuant to Section 44060 of the Health and



1 Safety Code, finance charges, and any dealer document  
2 preparation charge. The dealer document preparation  
3 charge shall not exceed forty-five dollars (\$45).

4 (c) (1) Exclude from an advertisement of a vehicle  
5 for sale that there will be added to the advertised total  
6 price at the time of sale, charges for sales tax, vehicle  
7 registration fees, the fee charged by the state for the  
8 issuance of any certificate of compliance or  
9 noncompliance pursuant to any statute, finance charges,  
10 and any dealer document preparation charge.

11 (2) For purposes of paragraph (1), “advertisement”  
12 means any advertisement in a newspaper, magazine,  
13 direct mail publication, or ~~any other print medium~~  
14 *handbill* that is two or more columns in width or one  
15 column in width and more than seven inches in length,  
16 or ~~any advertisement transmitted through or displayed~~  
17 ~~on a computer network~~; *on any screen page of a dealer’s*  
18 *website that displays the price of a vehicle offered for sale*  
19 *on the Internet, as that term is defined in paragraph (6)*  
20 *of subdivision (e) of Section 17538 of the Business and*  
21 *Professions Code.*

22 (d) Represent the dealer document preparation  
23 charge or certificate of compliance or noncompliance  
24 fee, as a governmental fee.

25 (e) Fail to sell a vehicle to any person at the advertised  
26 total price, exclusive of taxes, vehicle registration fees, the  
27 fee charged by the state for the issuance of any certificate  
28 of compliance or noncompliance pursuant to any statute,  
29 finance charges, mobilehome escrow fees, the amount of  
30 any city, county, or city and county imposed fee or tax for  
31 a mobilehome, and any dealer document preparation  
32 charge, which charges shall not exceed forty-five dollars  
33 (\$45) for the document preparation charge and not to  
34 exceed fifty dollars (\$50) for emission testing plus the  
35 actual fees charged for certificates pursuant to Section  
36 44060 of the Health and Safety Code, while the vehicle  
37 remains unsold, unless the advertisement states the  
38 advertised total price is good only for a specified time and  
39 the time has elapsed.



1 (f) (1) Advertise for sale, sell, or purchase for resale  
2 any new vehicle of a line-make for which the dealer does  
3 not hold a franchise.

4 (2) This subdivision does not apply to any transaction  
5 involving any of the following:

6 (A) A mobilehome.

7 (B) A recreational vehicle as defined in Section 18010  
8 of the Health and Safety Code.

9 (C) A commercial coach, as defined in Section 18001.8  
10 of the Health and Safety Code.

11 (D) An off-highway motor vehicle subject to  
12 identification as defined in Section 38012.

13 (E) A manufactured home.

14 (F) A new vehicle that will be substantially altered or  
15 modified by a converter prior to resale.

16 (G) A commercial vehicle with a gross vehicle weight  
17 rating ~~of~~ of more than 10,000 pounds.

18 (H) A vehicle purchased for export and exported  
19 outside the territorial limits of the United States without  
20 being registered with the department.

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

28 (h) Advertise free merchandise, gifts, or services  
29 provided by a dealer contingent on the purchase of a  
30 vehicle. The term “free” includes merchandise or  
31 services offered for sale at a price less than the seller’s cost  
32 of the merchandise or services.

33 (i) Advertise vehicles, and related goods or services, at  
34 a specified dealer price, with the intent not to supply  
35 reasonably expectable demand, unless the advertisement  
36 discloses the number of vehicles in stock at the advertised  
37 price. In addition, whether or not there are sufficient  
38 vehicles in stock to supply a reasonably expectable  
39 demand, when phrases such as “starting at,” “from,”  
40 “beginning as low as,” or words of similar import are used



1 in reference to an advertised price, the advertisement  
2 shall disclose the number of vehicles available at that  
3 advertised price.

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

15 The disclosure required by this subdivision is in  
16 addition to any other disclosure required by this code or  
17 any regulation regarding identifying vehicles advertised  
18 for sale.

19 (j) Use the term “rebate” or similar words such as  
20 “cash back” in advertising the sale of a vehicle unless the  
21 rebate is expressed in a specific dollar amount and is in  
22 fact a rebate offered by the vehicle manufacturer or  
23 distributor directly to the retail purchaser of the vehicle  
24 or to the assignee of the retail purchaser.

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

32 (l) Advertise a guaranteed trade-in allowance unless  
33 the guarantee is provided by the manufacturer or  
34 distributor.

35 (m) Misrepresent the authority of a salesperson,  
36 representative, or agent to negotiate the final terms of a  
37 transaction.

38 (n) (1) Use the terms “invoice,” “dealer’s invoice,”  
39 “wholesale price,” or similar terms that refer to a dealer’s  
40 cost for a vehicle in an advertisement for the sale of a



1 vehicle or advertise that the selling price of a vehicle is  
2 above, below, or at either of the following:

3 (A) The manufacturer's or distributor's invoice price  
4 to a dealer.

5 (B) A dealer's cost.

6 (2) This subdivision does not apply to either of the  
7 following:

8 (A) Any communication occurring during face-to-face  
9 negotiations for the purchase of a specific vehicle if the  
10 prospective purchaser initiates a discussion of the  
11 vehicle's invoice price or the dealer's cost for that vehicle.

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

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

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

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

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

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 SEC. 3. No reimbursement is required by this act  
15 pursuant to Section 6 of Article XIII B of the California  
16 Constitution because the only costs that may be incurred  
17 by a local agency or school district will be incurred  
18 because this act creates a new crime or infraction,  
19 eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section  
21 17556 of the Government Code, or changes the definition  
22 of a crime within the meaning of Section 6 of Article  
23 XIII B of the California Constitution.

