

Introduced by Senator Hernandez

February 18, 2011

An act to amend Section 9954 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 750, as introduced, Hernandez. Vehicles: key information access.

(1) Existing law imposes various requirements upon manufacturers of motor vehicles sold or leased in this state with regard to disclosing information and providing equipment.

Existing law requires a motor vehicle manufacturer of a new motor vehicle sold or leased in this state on or after January 1, 2008, except as specified, to provide a means whereby the registered owner of that motor vehicle or a family member, through a registered locksmith, can access information, and only that information, that is necessary to permit the production of a replacement key or other functionally similar device, by a registered locksmith, that will allow the registered vehicle's owner or family member to enter, start, and operate the vehicle. Existing law exempts, until January 1, 2013, from this requirement a vehicle line of a motor vehicle manufacturer that on January 1, 2006, does not provide for the production of a replacement key or functionally similar device that allows the vehicle to be entered and operated by anyone other than the vehicle manufacturer if the manufacturer operates a telephone or electronic request line for requesting a replacement key or similar device, as described.

This bill would make that exemption operative indefinitely.

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

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

SECTION 1. Section 9954 of the Vehicle Code is amended to read:

9954. (a) This section applies only to new vehicles sold or leased in this state on or after January 1, 2008, except as provided in subdivision (d) or (e).

(b) A motor vehicle manufacturer of a motor vehicle sold or leased in this state shall provide the means whereby the registered owner of that motor vehicle, through a registered locksmith, can access the information, and only that information, that is necessary to permit the production of a replacement key or other functionally similar device by the registered locksmith that will allow the registered vehicle's owner to enter, start, and operate his or her vehicle. The means to access this information shall be available by telephone or electronically 24 hours a day and seven days a week, as follows:

(1) When a registered locksmith is requested by the motor vehicle's registered owner or the registered owner's family member, to produce a replacement key or other functionally similar device that will allow the vehicle to be entered, started, and operated, and the information is needed from the vehicle manufacturer in order to produce the requested key or other functionally similar device, in addition to the requirement in Section 466.6 of the Penal Code, the registered locksmith shall visually verify the identity of the requesting party through that party's driver's license; shall visually verify that the registration of the vehicle matches the requesting party's identity and address (or last name and address if the requesting party is a family member of the registered owner); and shall visually verify that the vehicle identification number of the vehicle matches with the vehicle identification number on the registration. Upon satisfactory verification of all three requirements, the registered locksmith shall sign an affidavit that he or she has visually verified the information and file the affidavit along with, and for the same time period as, the work order required by Section 466.6 of the Penal Code, and proceed to access the needed information from the vehicle manufacturer.

(2) Upon completing the services, the registered locksmith shall give any key code information obtained from the vehicle

1 manufacturer to the registered owner, or if applicable, the owner's
2 family member, and shall destroy all information accessed from
3 the vehicle manufacturer in his or her possession.

4 (3) Except in cases of fraud or misappropriation, a registered
5 locksmith who follows these procedures shall incur no liability for
6 theft of the vehicle related to the locksmith's production of a
7 replacement key or functionally similar device that will allow the
8 vehicle to be entered, started, and operated.

9 (4) When a vehicle manufacturer receives a request from a
10 registered locksmith for information to enable the locksmith to
11 produce a replacement key or other functionally similar device
12 that will allow the vehicle to be entered, started, and operated, and
13 that request is made at the behest of the vehicle's registered owner
14 or the registered owner's family member, the vehicle manufacturer
15 shall require the registered locksmith to confirm the locksmith's
16 registration with the manufacturer's registry; provide the security
17 password issued by the manufacturer; and comply with any other
18 reasonable authentication procedure. The manufacturer shall also
19 require the registered locksmith to confirm the locksmith's visual
20 identity and vehicle verifications, pursuant to paragraph (1). Upon
21 satisfactory verification of these requirements, and upon
22 presentation of the vehicle identification number and model
23 number, the vehicle manufacturer shall provide to the registered
24 locksmith, for the vehicle identified by the vehicle identification
25 number and model number, the information necessary to enable
26 production of a replacement key or other functionally similar
27 device that allows the vehicle to be entered, started, and operated.

28 (5) A motor vehicle manufacturer subject to this section shall
29 retain and make the information available in accordance with this
30 section for at least 25 years from the date of manufacture.

31 (6) A vehicle manufacturer that follows these procedures shall
32 incur no liability for theft of the vehicle related to furnishing the
33 information to a registered locksmith for the production of a
34 replacement key or functionally similar device that will allow the
35 vehicle to be entered, started, and operated.

36 (c) For purposes of this section the following definitions apply:

37 (1) "Information" includes, but is not limited to, the vehicle's
38 key code and, if applicable, immobilizer or access code, and its
39 successor technology and terminology.

(2) “Motor vehicle” is a passenger vehicle as defined in Section 465 and pickup truck as defined in Section 471, and does not include a housecar, a motorcycle, or other two-wheeled motor vehicle.

(3) A “registered locksmith” means a locksmith licensed and bonded in California that has registered with a motor vehicle manufacturer, and has been issued a registry number and security password by the manufacturer.

(4) A registered owner, as defined in Section 505, also includes a lessee of the vehicle when the lessee’s name appears on the vehicle registration.

(d) (1) This section does not apply to a vehicle line of a motor vehicle manufacturer that on January 1, 2006, does not provide for the production of a replacement key or other functionally similar device that allows the vehicle to be entered, started, and operated, by anyone other than the vehicle manufacturer itself and only itself, ~~provided that if~~ the vehicle manufacturer operates a telephone or electronic request line 24 hours a day and seven days a week, and upon a request of the registered owner or family member of the registered owner of the vehicle, a replacement key or other functionally similar device that will allow the vehicle to be entered, started, and operated, is furnished to the registered owner at a reasonable cost within one day of the request or via the next overnight delivery.

(2) If subsequent to January 1, 2008, a vehicle line of the manufacturer exempted by this subdivision provides for the production of a replacement by anyone, other than the vehicle manufacturer itself, of a key or other functionally similar device that will allow the vehicle to be entered, started, and operated, this section shall apply to that vehicle line.

~~(3) This subdivision shall remain operative until January 1, 2013, and as of that date shall become inoperative, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.~~

(e) (1) This section does not apply to a vehicle line of a motor vehicle manufacturer that sold between 2,500 and 5,000 vehicles of that line in the prior calendar year in the state.

(2) This subdivision shall remain operative until January 1, 2013, and as of that date shall become inoperative, unless a later

1 enacted statute, that is enacted before January 1, 2013, deletes or
2 extends that date.

3 (f) This section shall not apply to a make that sold fewer than
4 2,500 vehicles in the prior calendar year in the state.

5 (g) The duties imposed on a manufacturer pursuant to this
6 section may be performed either by the manufacturer or by an
7 agent through a contract.

8 (h) The provisions of this section are severable. If any provision
9 of this section or its application is held invalid, that invalidity shall
10 not affect other provisions or applications that can be given effect
11 without the invalid provision or application.