

AMENDED IN SENATE MAY 20, 2014

AMENDED IN SENATE APRIL 9, 2014

**SENATE BILL**

**No. 1188**

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**Introduced by Senator Jackson**

February 20, 2014

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An act to add Section 1762 to the Civil Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1188, as amended, Jackson. Consumers Legal Remedies Act: *material* facts.

Existing law, the Consumers Legal Remedies Act, makes unlawful certain acts identified as unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods to any consumer. Existing case law had held that act to encompass omissions, including the omission of a material fact a person was obliged to disclose.

This bill, for the purposes of the Consumers Legal Remedies Act, would provide that fraud or deceit may consist of the suppression or omission of a material fact by one who is bound to disclose it or who gives information of other facts that are likely to mislead for want of communication of that fact, and would provide that a fact is material if a reasonable person would attach importance to its existence or nonexistence in determining a choice of action in the transaction in question. This bill would also provide, for the purposes of the act, that materiality is not limited to circumstances in which a product poses a threat to health or safety.

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

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

- 1     SECTION 1. Section 1762 is added to the Civil Code, to read:  
2     1762. For purposes of this title:  
3     (a) Fraud or deceit may consist of the suppression or omission  
4     of a material fact by one who is bound to disclose it or who gives  
5     information of other facts that are likely to mislead for want of  
6     communication of that fact.  
7     (b) A fact is material if a reasonable person would attach  
8     importance to its existence or nonexistence in determining a choice  
9     of action in the transaction in question.  
10    (c) Materiality is not limited to circumstances in which a product  
11    poses a threat to health or safety.  
12    (d) *This section shall not expand or restrict warranty rights or*  
13    *obligations.*