



MEMO

To : POLICY AND PROCEDURE COMMITTEE **Date:** May 8, 2012
DAVID WILSON, CHAIR
GLENN STEVENS, MEMBER

From : WILLIAM G. BRENNAN
DANA F. WINTERROWD

Subject: DISCUSSION CONCERNING PENDING LEGISLATION

The following provides a brief summary of pending State and Federal legislation that is of interest to the New Motor Vehicle Board (“Board”). For purposes of this memorandum, pending “legislation of special interest” means legislation that directly affects the Board’s laws or functions. Pending “legislation of general interest” includes legislation that impacts the Vehicle Code, the Board, or the automotive industry in general but does not directly impact the Board or its enabling statutes.

Bill summaries include a brief overview of the bill as provided by the Legislative Counsel’s Digest or the Congressional Research Service, if available, as well as the current status of the bill.

a. Legislation of Special Interest.

(1) Assembly Bill 1992 – Assembly Member Huber
(Introduced February 23, 2012)

Status – *On March 8, the Bill was double-referred to the Assembly Committees on, (1) Transportation and (2) Business, Professions and Consumer Protection (B, P & CP). At a hearing on April 10, 2012, before the Assembly Committee on B, P & PC, the bill failed passage. However, the bill was granted reconsideration.¹*

Support - None on file.

Opposition - *B&B Cycles, Barger Harley-Davidson, Bellflower Motorsports, California Motorcycle Dealers Association, California New Car Dealers Association, California Recreation vehicle Dealers Association, Dudley Perkins Co., IRV Seaver Motorcycles. Powersports of Vallejo, Southbay Motorsports.*

Legislative Counsel’s Digest - New Motor Vehicle Board: repeal.

¹ “Reconsideration” provides an opportunity to take another vote on a matter previously decided in a committee hearing or floor session. Moreover, reconsideration provides an opportunity to seek amendment of the bill, while maintaining the bill number and accompanying legislative preferences.

Existing law establishes the New Motor Vehicle Board in the Department of Motor Vehicles. The duties of the board include collecting fees for the administration of the certification of 3rd-party dispute resolution processes for new motor vehicles established under the Business and Professions Code, resolving issues raised by protests or petitions filed with the board pursuant to, among other actions, an appeal from a decision of the Department of Motor Vehicles, and regulating franchises subject to the Vehicle Code.

This bill would abolish that board and its duties and responsibilities as of January 1, 2022.

b. Legislation of General Interest.

(1) Assembly Bill 1447 – Assembly Member Feuer.
(Introduced January 4, 2012)

Status – *On April 24, 2012, the Assembly Committee on Judiciary passed the bill, as proposed to be amended,² and re-referred it to the Assembly Committee on Appropriations. On May 1, 2012, the bill was read a second time and amended. On May 2, 2012, the bill was re-referred to the Assembly Committee on Appropriations.*

Support – *Center for Responsible Lending, Consumers for Auto Reliability and Safety (CARS), Consumer Federation of California, Navy-Marine Corps Relief Society.*

Oppose (unless amended) – *Payment Assurance Technology Association.*

Opposition – *National Independent Automobile Dealers Association (NIADA).*

Legislative Counsel’s Digest - Automobile sales finance: sellers.

The Rees-Levering Motor Vehicle Sales and Finance Act regulates conditional sales contracts for motor vehicles, and, among other things, requires a person selling or leasing a motor vehicle under a conditional sale contract to disclose certain information to the buyer of the vehicle. A willful violation of those provisions is a misdemeanor and may render the contract unenforceable. A seller who violates the provisions of the act may also be liable to the buyer for monetary damages.

This bill would prohibit a seller under the act from requiring, as part of a contract, the buyer to make payments in person, with the exception of the downpayment for the vehicle.

Additionally, this bill would require a seller to display the vehicle’s sale price on the vehicle.

This bill would also prohibit a seller from calling a buyer’s references after the sale of the vehicle, and would prohibit a seller from, after the sale of the vehicle, tracking the vehicle using Global Positioning System technology and from disabling the vehicle with ignition override technology.

² Passed, “as proposed to be amended” means the bill passed with a recommendation that the floor adopt specified amendments.

(2) Assembly Bill 2502 – Assembly Member Blumenfield.
(Introduced February 24, 2012; amended March 22, 2012)

Status – As introduced, this bill addressed certain licensing hearings conducted on behalf of the Director of Motor Vehicles. On March 22, 2012, the bill was substantially amended, removing provisions related to those hearings and inserting language discussed below. On March 29, 2012, the Assembly Committee on Transportation passed the bill as amended and recommended that it be referred to the Assembly Committee on Judiciary. The bill was referred to Assembly Committee on Judiciary. On May 7, 2012, that committee passed the bill, as amended. The bill is set for the Assembly consent calendar of May 8, 2012.

Support – Alliance of Automobile Manufacturers, California New Car Dealers Association.

Opposition – None stated.

Legislative Counsel’s Digest

~~Vehicles: issuance of licenses and special plates: hearings: conditional sales contracts.~~

~~Existing law imposes various licensing and regulatory requirements on dealers of motor vehicles and requires that certain fees and charges be disclosed in a conditional sales contract for the purchase of a motor vehicle.~~

~~This bill would additionally require the disclosure and labeling, as specified, of any charge for an electrical vehicle charging station, which may include materials, wiring, and equipment installation.~~

~~Existing law entitles, upon refusal of the Department of Motor Vehicles to issue a license and special plates to a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer, an applicant to demand, in writing, a hearing before the Director of Motor Vehicles or his or her representative within 60 days after notice of refusal. This bill would instead require that the hearing take place only before the director within 60 days after the notice of refusal.~~

(3) Senate Bill 103 – Senator Liu.

(Introduced January 12, 2011, amended in Senate March 01 and April 26, 2011, amended in Assembly June 14, June 29, and July 12, 2011.)

Status – Held in Assembly Appropriations Committee under submission.

Support – American Federation of State, County, and Municipal Employees, AFL-CIO, Sierra Club of California.

Opposition – None on file.

Legislative Counsel’s Digest – State government: meetings.

This bill would authorize a state body, to the extent practicable, to conduct teleconference meetings, and would require, upon the request of a member of a state body, a state body to hold an open or closed meeting by teleconference, unless the chair of that state body determines that it would be more costly to hold the meeting by teleconference than it would be to hold it in person.

This bill would prohibit a member of a state body from requesting a meeting by teleconference solely because it would be more convenient than holding a meeting in person.

This bill would require a state body that operates an Internet Web site to provide a supplemental live audio or video broadcast on the Internet Web site of its board meetings that are open to the public, and would specify that a technical failure to provide a live broadcast would not prohibit the body from meeting and taking actions.

(4) Senate Bill 956 – Senator Lieu

(Introduced January 9, 2012, *amended in Senate March 26, April 9, and May 1, 2012.*)

Status – *On April 18, 2012, the Senate Committee on Banking and Financial Institutions passed the bill and referred it to the Senate Standing Committee on Judiciary. On April 24, 2012, the Senate Standing Committee on Judiciary passed the bill, as amended, and referred it to the Senate Standing Committee on Appropriations. On May 1, 2012, the bill was read a second time, amended, and referred to the Senate Committee on Appropriations, where a hearing is set for May 14, 2012.*

Support – *American Federation of State, County and Municipal, Employees (AFSCME), AFL-CIO, California Immigrant Policy Center, California Reinvestment Coalition; Center for Responsible Lending, Consumers for Auto Reliability and Safety (CARS), Consumer Attorneys of California, Consumer Federation of California; El Segundo Chamber of Commerce's Government & Military Affairs Committee and Board of Directors, LAX Coastal Area Chamber of Commerce, Silicon Valley Community Foundation, Torrance Area Chamber of Commerce.*

Opposition – *Independent Automobile Dealers Association of California, Leedom Group, National Alliance of Buy Here, Pay Here Dealers (NABD), National Independent Automobile Dealers Association, several individuals.*

Legislative Counsel's Digest – Buy-here-pay-here automobile sellers and lenders.

This bill would enact the Buy-Here-Pay-Here Automobile Dealers Act. The bill would ~~define~~ *identify* a “buy-here-pay-here automobile dealer” as a person who is required to obtain a license from the Department of Motor Vehicles to act as a dealer in vehicles and who also enters into a *specified number of* conditional sales contracts or lease contracts. This bill would require those dealers to obtain a finance lender license and subject them to the other provisions of the California Finance Lenders Law. The bill would also define a “buyer-borrower” as a person who enters into a conditional sales contract or lease contract with a buy-here-pay-here automobile dealer.

This bill would govern the terms and conditions of contracts entered into by a buy-here-pay-here automobile dealer and the rights of the parties, including, but not limited to, requiring a notice to a buyer-borrower of specified rights under the contract, ~~and would provide a buyer-borrower with a private right of action against a buy-here-pay-here automobile dealer who has violated the provisions of the bill.~~

This bill would impose additional requirements on a buy-here-pay-here automobile dealer seeking to repossess a vehicle, including, but not limited to, prohibiting a dealer from commencing repossession proceedings due to failure to make a scheduled loan payment prior to the 11th day following the day on which that payment was due, requiring a dealer to hire a licensed repossession agency to repossess the vehicle on the dealer's behalf, and prohibiting the dealer from charging the buyer-borrower a fee exceeding \$500 for the dealer's costs in connection with the repossession.

The bill would also establish a cap on interest rates that could be charged under a buy-here-pay-here sales or lease contract and require a buy-here-pay-here automobile dealer to allow a buyer-borrower ~~2 months~~ 45 days to repay any penalties, fees, and other charges imposed by the dealer on the buyer-borrower in connection with past due payments that have been brought current.

(5) Senate Bill 990 – Senator Vargas.
(Introduced February 1, 2012)

Status – *This bill is effectively dead. On April 10, 2012, before the Senate Transportation and Housing Committee, (1) the bill failed passage, (2) was granted reconsideration, (3) was heard a second time, (4) again failed passage, but (5) was granted reconsideration.*³

Support – CARFAX (sponsor), African American Leadership Coalition of Sacramento Airbag Service, California Black Chamber of Commerce, California Hispanic Chambers of Commerce, California State Conference of the NAACP, California Urban Partnership, Contra Costa Taxpayers Association, East Contra Costa County Branch of the NAACP, Experian, Hispanic 100, Honda , Latin Business Association, Orange County Taxpayers Association, R. L. Polk & Co., Santa Ana Education Project, Sacramento Black Chamber of Commerce, Two individuals , Valley Industry & Commerce Association.

Opposition – CARCO Group, Inc., California New Car Dealers Association, Consumer Action, Consumer Attorneys of California, Consumer Federation of California, Consumers for Auto Reliability and Safety, instaVIN, LKQ Corporation, National Association of Consumer Advocates, National Salvage Vehicle Reporting Service, State of California Auto Dismantlers Association

Legislative Counsel's Digest - Vehicle history report.

Existing law, as of July 1, 2012, prohibits a dealer from displaying or offering for sale at retail a used vehicle unless the dealer first obtains a vehicle history report from the National Motor Vehicle Title Information System (NMVTIS).

³“Reconsideration” provides an opportunity to take another vote on a matter previously decided in a committee hearing or floor session. Moreover, reconsideration provides an opportunity to seek amendment of the bill, while maintaining the bill number and accompanying legislative preferences.

This bill would revise that prohibition to authorize a dealer to also obtain the vehicle history report from a commercial data provider, as defined, and would make conforming changes.

c. Federal Legislation of General Interest.

(1) United States House of Representatives Bill 75 – U.S. Representative Jackson-Lee (Introduced January 5, 2011)

Status - On January 5, 2011, this bill was referred to the House Committee on Energy and Commerce; on February 1, 2011, this bill was referred to the Subcommittee on Commerce, Manufacturing, and Trade.

Short Title - Automobile Dealers Fair Competition Act of 2011

Congressional Research Service Summary: Makes it unlawful for any new automobile manufacturer to unreasonably discriminate against or deny a franchise to an automobile dealer who applies for the retention of its franchise. Permits an automobile dealer to file an expedited action in a U.S. district court to restore its franchise.

Defines: (1) "new automobile manufacturer" as an automobile manufacturing company established in 2009 that is the successor to another automobile manufacturing company and acquires the assets of the predecessor company in a transaction governed by federal bankruptcy law; and (2) "automobile dealer" as any automobile dealer in the United States that, on January 1, 2009, held a franchise granted by an automobile manufacturing company that was the predecessor company to a new automobile manufacturer to sell that company's automobiles, but has not entered into an agreement with the new manufacturer to continue serving as a franchisee.

This matter is being agendized for information at the May 22, 2012, General Meeting. If you have any questions or require additional information, please do not hesitate to contact me at (916) 324-6197 or Dana (916) 327-3129.

cc: Ramon Alvarez C.