



MEMO

To: POLICY AND PROCEDURE COMMITTEE **Date:** March 2, 2016
KATHRYN ELLEN DOI, CHAIR
RYAN BROOKS, MEMBER

From : WILLIAM G. BRENNAN
DANIELLE R. VARE

Subject: DISCUSSION CONCERNING PENDING LEGISLATION

The following provides a summary of pending and enacted State legislation that is of interest to the New Motor Vehicle Board (“Board”). The criteria for reporting on “legislation of general interest” is that the bill impacts the Vehicle Code, the Board, and/or the automotive industry in general and does not directly impact the Board or its enabling statute. For purposes of this report “legislation of special interest” is that which directly affects the Board’s laws or functions.

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.¹

a. Pending Legislation of Special Interest:

(1) **Assembly Bill 287 - Assembly Members Gordon, Eggman and Mark Stone (Principal Coauthor Assembly Member Wilk; Coauthors: Assembly Members Dababneh, Dodd, Jones and Lackey)** (Introduced February 11, 2015)

Status: This is a 2-year bill. It is in the Senate Transportation and Housing Committee.

Support: California New Car Dealers Association, Independent Automobile Dealers Association of California

Opposition: Advocates for Highway and Auto Safety, Association of Global Automakers, California Conference of Machinists, California Rural Legal Assistance Foundation, CALPIRG, Center for Auto Safety, Consumer Action, Consumer Attorneys of California, Consumer Federation of California, Consumer Watchdog, Consumers for Auto Reliability and Safety (CARS), Consumers Union, Courage Campaign, Housing and Economic Rights Advocates (HERA), International Association of Machinists and Aerospace Workers (District Lodge 190), National Association of Consumer Advocates, The Sturdevant Law Firm,

¹ All statutory references are to the Vehicle Code, unless otherwise indicated.

The Trauma Foundation
Legislative Counsel's Digest: Vehicle safety: recalls

Existing law generally regulates the transfer and registration of motor vehicles. Existing federal law requires a motor vehicle manufacturer to notify the owner or purchaser of a motor vehicle when the manufacturer determines that the vehicle contains a safety-related defect or when the manufacturer is ordered by the federal Secretary of Transportation to notify vehicle owners and purchasers that a vehicle has a safety-related defect. Existing federal law also prohibits a motor vehicle dealer from selling a vehicle if it has been notified of a safety-related defect by the manufacturer, except as specified.

This bill would enact the Consumer Automotive Recall Safety Act, which would be operative on or after July 1, 2016. The act would require a vehicle manufacturer to display notifications of Stop Sale – Stop Drive recalls, as defined, on the manufacturer's Internet Web site. The act would require a vehicle manufacturer to provide a rental or loaner car for a consumer who seeks to have a vehicle repaired because of a recall but the parts or procedures are not yet available to perform the repair. The act would also require a vehicle manufacturer to compensate its franchisees, as specified, for costs incurred in providing a loaner or rental car and storing a consumer's vehicle that is subject to recall if the parts or procedures are not yet available to perform the repair.

The act would prohibit a vehicle dealer from displaying or offering for sale at retail a used vehicle, unless the dealer has obtained a recall database report within 30 days of the display or offer. The act would prohibit a vehicle dealer from selling or leasing a vehicle at retail if the used vehicle is subject to a Stop Sale – Stop Drive recall, until the recalled vehicle has been repaired, subject to exception. The act would prohibit a rental car company from renting a vehicle that is subject to a recall, until the recalled vehicle has been repaired, as specified. By creating new prohibitions, the violation of which would be a crime under existing law, this bill would impose a state-mandated local program.

Existing law establishes the New Motor Vehicle Board in the Department of Motor Vehicles, and requires the board to hear and decide certain protests presented by a motor vehicle franchisee in regard to a dispute with the vehicle manufacturer.

This bill would, commencing July 1, 2016, authorize the board to hear and decide protests by franchisees regarding payments for providing a loaner or rental car and storing a consumer's vehicle subject to recall if the parts or procedures are not yet available to perform the repair. The bill would make additional conforming changes.

Existing law prescribes certain instances when the Department of Motor Vehicles may refuse registration, or renewal or transfer of registration, of a vehicle, including, among others, if the applicant has failed to furnish the department with an odometer disclosure statement, as specified.

This bill would additionally authorize the department, commencing July 1, 2016, to refuse registration, or renewal or transfer of registration, of a vehicle if the applicant has failed to furnish the department with a recall disclosure statement, as defined.

Under existing law, a vehicle manufacturer, manufacturer branch, distributor, and distributor branch are prohibited from engaging in specified practices. Existing law makes a violation of these prohibitions a crime.

This bill would, commencing July 1, 2016, include within those prohibited practices, unfairly discriminating among franchisees with respect to reimbursement for costs incurred in providing a loaner or rental car and storing a consumer's vehicle that is subject to recall if the parts or procedures are not yet available to perform the repair. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

b. Pending Legislation of General Interest:

(1) Senate Bill 16 – Senator Beall (Introduced December 1, 2014)

Status: This bill has died on file. The bill did not make it out of its House of Origin before the January 31, 2016 deadline and is therefore dead pursuant to Joint Rule 56.

Support: American Society of Civil Engineers, Associated General Contractors, California Alliance for Jobs, California Association of Councils of Governments, California Contract Cities Association, California State Association of Counties, California Infill Federation, City/County Association of Governments of San Mateo County, County of Humboldt, CTM Construction, Glendale City Employees Association, Laborers' International Union of North America, Laborers' National Union of North America Locals 777 & 792, League of California Cities, Los Angeles County Division of the League of Cities, Marin County Board of Supervisors, Marin County Council of Mayors and Council Members, Mendocino County Board of Supervisors, Monterey County Board of Supervisors, Northern California Carpenters Regional Council, Organization of SMUD Employees, Professional Engineers in California Government, Riverside County Board of Supervisors, San Benito County Board of Supervisors, San Bernardino Public Employees Association, San Luis Obispo County Employees Association, San Joaquin Valley Regional Transportation Authority, San Diego County Court Employees Association, Santa Clara County Board of Supervisors, Santa Clara Open Space Authority, Silicon Valley Leadership Group and numerous cities and towns throughout California.

Opposition: Association of California Car Clubs, Howard Jarvis Taxpayers Association and six individuals.

Legislative Counsel's Digest: Transportation Funding- urgency measure

Existing law imposes state taxes and fees related to transportation.

This bill increases several taxes and fees to raise roughly \$3.5 billion in new transportation revenues annually for five years with the funding used to address deferred maintenance on state highways and local streets and roads. Specifically, this bill imposes a \$0.10 per gallon excise tax on gasoline, a \$0.12 per gallon excise tax on diesel fuel, and increased vehicle license fees and registration fees for five years.

c. Pending Federal Legislation of General Interest:

(1) United States House of Representatives Bill 679 – U.S. Representative Blumenauer (Introduced February 3, 2015)

Status: Referred to Subcommittee on Highways and Transit (in House Transportation and Infrastructure Committee) and Subcommittee on Energy and Power (in House Energy and Commerce Committee)

Support: None on file

Opposition: None on file

Congressional Summary: Road Usage Charge Pilot Program Act of 2015

This bill directs the Secretary of the Treasury to establish the Road Usage Charge Pilot Program to make competitive grants to state or local governments, or metropolitan planning, regional transportation planning, or tribal organizations to conduct pilot studies on implementing mileage-based fee systems as a method for funding transportation highway projects. The bill directs the Secretary to establish a working group to:

- develop national technology standards for a road usage charge, as well as national privacy standards for such a charge that balance the effectiveness of revenue systems with user privacy; and
- evaluate the potential of the methods studied in the program to manage demand and reduce the emission of greenhouse gases.

(2) United States House of Representatives Bill 1181 – U.S. Representative Schakowsky (Introduced February 27, 2015)

Status: Referred to Subcommittee on Commerce, Manufacturing, and Trade (in House Committee on Energy and Commerce)

Support: None on file

Opposition: None on file

Congressional Summary: Vehicle Safety Improvement Act of 2015

This bill revises and expands requirements relating to public disclosure by the National Highway Traffic Safety Administration (NHTSA) of: (1) defects in motor vehicles or equipment, whether or not such defects are safety-related; and (2) noncompliance with vehicle safety standards.

It requires public disclosure of: (1) early warning information submitted by vehicle manufactures unless exempt from disclosure by the Freedom of Information Act, and (2) summaries of NHTSA inquiries to manufacturers seeking additional information about fatal incidents.

It directs NHTSA to increase public accessibility to and timeliness of information on its vehicle safety databases. The bill requires the Used Car Buyers Guide window form to include statements of the vehicle's brand history, total loss history, salvage history, and recall repair history. It increases civil penalties for violations of federal

motor vehicle safety requirements. It eliminates model year limitations on mandatory manufacturer reports of possible vehicle defects. Specifies additional requirements for reports on incidents involving fatalities.

The bill requires a comprehensive review of the practices of manufacturers of individual light vehicles for reporting incidents involving death or injury.

It directs NHTSA to: (1) order notification and remediation of a defect or noncompliance, in motor vehicles or equipment, that presents an imminent hazard, and (2) issue a final rule to establish standards for reducing pedestrian injuries and fatalities. The bill also authorizes NHTSA to enter into cooperative agreements and collaborative motor safety research and development agreements with foreign governments.

It changes from discretionary to mandatory NHTSA authority to promulgate rules requiring a senior official responsible for safety in any company to make certain certifications about information submitted regarding a safety defect or compliance investigation. The bill subjects any NHTSA rejection of a defect petition to judicial review.

It prescribes requirements for prompt evaluation of whistleblower complaints. The bill prohibits any vehicle safety official, during the two-year period after termination of service or employment, from knowingly communicating to or appearing before any NHTSA officer or employee, with the intent to influence NHTSA action, on behalf of any manufacturer subject to NHTSA regulation about a matter involving motor vehicle safety on which the former official seeks official action by a NHTSA officer or employee. It requires a report to Congress on the operations of the Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies. It prohibits a car dealer from selling or leasing a used motor vehicle until any defect or noncompliance has been remedied.

The bill requires manufacturer notifications for any safety problems caused by long-term exposure to environmental conditions. Eliminates regional recalls in favor of national recalls. It requires manufacturers who file for Chapter 7 bankruptcy protection (liquidation) to comply with their recall obligations (currently, this requirement applies only to manufacturers in Chapter 11 reorganization proceedings).

It directs NHTSA to: (1) research development of safety standards or performance requirements for the crashworthiness and survivability for passengers in the rear seats of motor vehicles, and (2) initiate related rulemaking. It establishes a Vehicle Safety Fund in the Treasury to fund NHTSA vehicle safety programs from the collection of fees from manufacturers for each motor vehicle certified compliant with motor vehicle safety standards. It reauthorizes the NHTSA motor vehicle safety program through FY2018.

(3) United States Senate Bill 304 – U.S. Senator Thune (Introduced February 29, 2015)

Status: Passed Senate with an amendment by unanimous consent; referred to House Subcommittee on Commerce, Manufacturing and Trade

Support: None on file

Opposition: None on file

Congressional Summary: Motor Vehicle Safety Whistleblower Act

This bill prescribes certain whistleblower incentives and protections for motor vehicle manufacturer, part supplier, or dealership employees or contractors who voluntarily provide the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation of any notification or reporting requirement which is likely to cause unreasonable risk of death or serious physical injury.

This bill also authorizes the Secretary to pay awards to one or more whistleblowers in an aggregate amount of up to 30% of total monetary sanctions collected pursuant to an administrative or judicial action resulting in aggregate monetary sanctions exceeding \$1 million.

This bill denies an award to any whistleblower who:

- is convicted of a criminal violation related to such administrative or judicial action;
- contributes to the alleged violation of a requirement under this Act;
- submits to the Secretary information based on facts previously submitted by another whistleblower;
- fails to provide original information to the Secretary in the appropriate form; or
- fails to report or attempt to report the information internally to the motor vehicle manufacturer, parts supplier, or dealership, unless the whistleblower reasonably believed it would have resulted in retaliation or was already known by the manufacturer, part supplier, or dealership.

This bill also prohibits an award to any whistleblower who knowingly and willfully makes false representations and subjects such a whistleblower to criminal penalties.

This bill requires nondisclosure of a whistleblower's identity, except in specified circumstances.

This bill also authorizes a whistleblower to appeal Secretary determinations in the appropriate U.S. court of appeals.

(4) United States Senate Bill 617 – U.S. Senator Markey (Introduced March 2, 2015)

Status: Referred to Committee on Commerce, Science, and Transportation

Support: None on file

Opposition: None on file

Congressional Summary: Repairing Every Car to Avoid Lost Lives Act (RECALL Act)

This bill declares that a state is in compliance with safety recall requirements if the state agency responsible for motor vehicle registration ensures, by a motor vehicle identification number search of the National Highway Traffic Safety Administration's recall database, that each registered owner of a motor vehicle registered in the state is notified of all recalls issued by the vehicle's manufacturer by certain deadlines, depending on when the vehicle is registered.

A state must also require that owners complete all recall remedies as a prerequisite for motor vehicle registration renewal, with the following exceptions:

- the owner had not been notified of the recall before being notified of the need to renew;
- the manufacturer, through a local dealership, has not given the owner reasonable opportunity to complete a recall remedy because of a shortage of parts or qualified labor; or
- the owner demonstrates to the state that he or she has not had reasonable opportunity to complete the recall remedies, in which case the state may grant a temporary registration for 60 days during which time the owner must complete the recall remedies.

The Secretary of Transportation shall withhold 5% of federal highway funds from a state that is not in compliance with these requirements.

This matter is for information only at the March 16, 2016, General Meeting. If you have any questions or require additional information, please contact me at (916) 324-6197 or Danielle at (916) 327-3129.

cc: Glenn Stevens