

Senate Bill No. 95

Passed the Senate September 2, 2009

Secretary of the Senate

Passed the Assembly August 20, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 9262 and 9262.5 of, and to add Section 11709.4 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 95, Corbett. California Car Buyers' Protection Act of 2009.

Existing law provides for the issuance of dealer's licenses, and sets the fees for an original license at \$150 and for an annual renewal at \$100. Existing law sets the fees for an original autobroker's endorsement at \$50 and for the annual renewal at \$25.

This bill would enact the California Car Buyers' Protection Act of 2009. The bill would impose certain requirements when a dealer purchases or obtains a vehicle in trade in a retail sale or lease transaction and the vehicle is subject to a prior credit or lease balance, relating to the discharge of the credit or balance. The bill would increase dealer's license and renewal fees to \$175 and \$125, respectively. The bill would increase autobroker's endorsement and renewal fees to \$100 and \$75, respectively.

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

SECTION 1. This act shall be known and may be cited as the California Car Buyers' Protection Act of 2009.

SEC. 2. The Legislature finds and declares all of the following:

(a) Many car buyers have lost confidence in the automotive marketplace, resulting in a reduction of revenues for sellers, local and county governments, and the state, contributing to job losses and the state's overall economic downturn.

(b) During the past year at least 480 new and used licensed auto dealerships have gone out of business in California, far more than in any other state, and it is projected that the numbers will continue to accelerate for the foreseeable future.

(c) When consumers choose to purchase vehicles from auto dealerships that are licensed by the Department of Motor Vehicles, they have a reasonable expectation that the dealerships have sufficient resources to honor their contractual commitments.

(d) Car buyers have no reliable way to know in advance whether an auto dealer is on the brink of insolvency or is on a sound financial footing.

(e) When licensed auto dealerships go out of business they often fail to pay off liens, as agreed, and also fail to honor warranties, service contracts, and other services for which car buyers have paid in advance, costing thousands of car buyers millions of dollars in losses.

(f) The current federal assistance fails to provide any relief for car buyers, while providing taxpayer dollars to assist the auto manufacturers, dealers, and workers who are seeking assistance from the American public; yet it is ultimately car buyers who will determine the fate of our domestic auto industry by buying cars.

(g) When licensed auto dealerships go out of business without honoring their obligations, car buyers often face ruinous consequences, through no fault of their own, resulting in harm to their credit, repossessions that remain on their credit reports for seven to 10 years, job losses due to a lack of transportation, home foreclosures, and bankruptcy.

(h) The Department of Motor Vehicles projects that the current funding available for the Consumer Recovery Fund (CRF) established by enactment of Senate Bill 729 of the 2007–08 Regular Session will not be sufficient to meet all the demands made upon the CRF by car buyers with legitimate complaints. Even if sufficient funds were available, there is no authority to provide restitution from the CRF for losses incurred involving prepaid products, warranties, or services or to restore the credit of consumers whose credit is harmed by dealer insolvencies, lost jobs, lost income, or other damages consumers suffer due to a lack of transportation when vehicles are repossessed because auto dealers failed to pay off liens as promised.

(i) Honest dealers are also adversely impacted when unscrupulous auto dealers siphon off business and then harm the credit of their customers by going out of business without paying liens, as promised, shrinking the automotive market at precisely the time when it is sound public policy to expand the market and accelerate sales of newer, safer, cleaner motor vehicles.

SEC. 3. Section 9262 of the Vehicle Code is amended to read:

9262. (a) The fee for a license issued to dealers and lessor-retailers is as follows:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of one hundred seventy-five dollars (\$175).

(2) For the annual renewal of a license, a fee of one hundred twenty-five dollars (\$125).

(3) If an alteration of an existing license is caused by a firm name change, address change, change in the corporate officer structure, or the addition of a branch location, a fee of seventy dollars (\$70).

(b) The fee for a license issued to dismantlers, manufacturers, manufacturer branches, remanufacturers, remanufacturer branches, transporters, distributors, and distributor branches is as follows:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of one hundred dollars (\$100).

(2) For the annual renewal of a license, a fee of eighty-five dollars (\$85).

(3) If an alteration of an existing license is caused by a firm name change, address change, or the addition of a branch location, a fee of fifty dollars (\$50).

(4) If an alteration of an existing license is caused by a change in the corporate officer structure, a fee of seventy dollars (\$70).

(c) The fee for a license issued to representatives is as follows:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of fifty dollars (\$50).

(2) For the annual renewal of a license, a fee of eighty-five dollars (\$85).

(d) The fee for an autobroker's endorsement to a dealer's license is as follows:

(1) For the original endorsement, a nonrefundable fee of one hundred dollars (\$100).

(2) For the annual renewal of the endorsement, a fee of seventy-five dollars (\$75).

(e) When the holder of a license for which a fee is provided in this section applies for special plates as provided in subdivision (b) of Section 11505 or subdivision (b) of Section 11714, the fee for the plates and the annual renewal of the plates is the prevailing vehicle registration fee as set forth in Section 9250 for the period for which the special plates are issued or renewed.

SEC. 4. Section 9262.5 of the Vehicle Code is amended to read:

9262.5. It is the intent of the Legislature, in amending Section 9262 in 2009 to increase the fee for the annual renewal of the license of a dealer and of a lessor-retailer to one hundred twenty-five dollars (\$125), that forty dollars (\$40) of that fee shall, when appropriated, be utilized by the department for the investigation of those dealers and lessor-retailers who demonstrate the greatest potential for causing losses to consumers as shown by repeated consumer complaints, habitual violations of the requirements of their licenses, the issuance of a probationary license by the department, or a violation of other standards and criteria established by the department for these purposes.

SEC. 5. Section 11709.4 is added to the Vehicle Code, to read:

11709.4. (a) When a dealer purchases or obtains a vehicle in trade in a retail sale or lease transaction and the vehicle is subject to a prior credit or lease balance, all of the following apply:

(1) If the dealer agreed to pay a specified amount on the prior credit or lease balance owing on the vehicle purchased or obtained in trade, and the agreement to pay the specified amount is contained in a written agreement documenting the transaction, the dealer shall tender the agreed upon amount as provided in the written agreement to the lessor registered in accordance with Section 4453.5, or to the legal owner reflected on the ownership certificate, or to the designee of that lessor or legal owner of the vehicle purchased or obtained in trade within 21 calendar days of purchasing or obtaining the vehicle in trade.

(2) If the dealer did not set forth an agreement regarding payment of a prior credit or lease balance owed on the vehicle purchased or obtained in trade, in a written agreement documenting the transaction, the dealer shall tender to the lessor registered in accordance with Section 4453.5, or to the legal owner reflected on the ownership certificate, or to the designee of that lessor or legal owner of the vehicle purchased or obtained in trade, an amount necessary to discharge the prior credit or lease balance owing on the vehicle purchased or obtained in trade within 21 calendar days of purchasing or obtaining the vehicle in trade.

(3) The time period specified in paragraphs (1) or (2) may be shortened if the dealer and consumer agree, in writing, to a shorter time period.

(4) A dealer shall not sell, consign for sale, or transfer any ownership interest in the vehicle purchased or obtained in trade until an amount necessary to discharge the prior credit or lease balance owing on the vehicle has been tendered to the lessor registered in accordance with Section 4453.5, or to the legal owner reflected on the ownership certificate, or to the designee of that lessor or legal owner of the vehicle purchased or obtained in trade.

(b) A dealer does not violate this section if the dealer reasonably and in good faith gives notice of rescission of the contract promptly, but no later than 21 days after the date on which the vehicle was purchased or obtained in trade, and the contract is thereafter rescinded on any of the grounds in Section 1689 of the Civil Code.

SEC. 6. Nothing in this act shall be construed to limit, in any way, the existing rights, remedies, or recourses available to any person who purchases or leases vehicles at retail.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2009

Governor