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**AB-2227 Motorcycles: hang tags.** (2017-2018)

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**Assembly Bill No. 2227**

**CHAPTER 187**

An act to amend Sections 11713.1 and 24014 of the Vehicle Code, relating to motorcycles.

[ Approved by Governor August 24, 2018. Filed with Secretary of State August 24, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2227, Friedman. Motorcycles: hang tags.

Existing law imposes specified requirements on manufacturers and dealers of motor vehicles and motorcycles sold or leased in this state. Existing law prohibits a dealer from selling, offering for sale, or displaying, any new, assembled motorcycle on its premises, unless there is securely attached to the handlebars of the motorcycle a label, approved by the Department of Motor Vehicles, furnished by the manufacturer of the motorcycle. Under existing law, that label is required to clearly indicate specified information, including the recommended retail price of the motorcycle and the recommended price for each accessory or item of optional equipment physically attached to the motorcycle at the time of its delivery to the dealer. A violation of these provisions is a crime.

This bill would require that label to be in the form of a hang tag, and to include the manufacturer's suggested retail price, as defined, for that motorcycle, and the vehicle identification number of that motorcycle. The bill would prohibit a dealer from affixing a supplemental price label containing a price that represents the dealer's asking price that exceeds the manufacturer's suggested retail price unless the label complies with specified requirements and disclosures. The bill would make additional conforming changes. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 11713.1 of the Vehicle Code is amended to read:

**11713.1.** It is a violation of this code for the holder of a dealer's license issued under this article to do any of the following:

(a) Advertise a specific vehicle for sale without identifying the vehicle by its model, model-year, and either its license number or that portion of the vehicle identification number that distinguishes the vehicle from all other vehicles of the same make, model, and model-year. Model-year is not required to be advertised for current model-year vehicles. Year models are no longer current

when ensuing year models are available for purchase at retail in California. An advertisement that offers for sale a class of new vehicles in a dealer's inventory, consisting of five or more vehicles, that are all of the same make, model, and model-year is not required to include in the advertisement the vehicle identification numbers or license numbers of those vehicles.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees, the California tire fee, as defined in Section 42885 of the Public Resources Code, emission testing charges not exceeding fifty dollars (\$50), actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, finance charges, and any dealer document processing charge or charge to electronically register or transfer the vehicle.

(c) (1) Exclude from an advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of a certificate of compliance or noncompliance pursuant to a statute, finance charges, a charge to electronically register or transfer the vehicle, and a dealer document processing charge.

(2) The obligations imposed by paragraph (1) are satisfied by adding to the advertisement a statement containing no abbreviations and that is worded in substantially the following form: "Plus government fees and taxes, any finance charges, any dealer document processing charge, any electronic filing charge, and any emission testing charge."

(3) For purposes of paragraph (1), "advertisement" means an advertisement in a newspaper, magazine, or direct mail publication that is two or more columns in width or one column in width and more than seven inches in length, or on a Web page of a dealer's Internet Web site that displays the price of a vehicle offered for sale on the Internet, as that term is defined in paragraph (6) of subdivision (f) of Section 17538 of the Business and Professions Code.

(d) Represent the dealer document processing charge, electronic registration or transfer charge, or emission testing charge, as a governmental fee.

(e) Fail to sell a vehicle to a person at the advertised total price, exclusive of taxes, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of a certificate of compliance or noncompliance pursuant to a statute, finance charges, mobilehome escrow fees, the amount of a city, county, or city and county imposed fee or tax for a mobilehome, a dealer document processing charge, an electronic registration or transfer charge, and a charge for emission testing not to exceed fifty dollars (\$50) plus the actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed. Advertised vehicles shall be sold at or below the advertised total price, with statutorily permitted exclusions, regardless of whether the purchaser has knowledge of the advertised total price.

(f) (1) Advertise for sale, sell, or purchase for resale a new vehicle of a line-make for which the dealer does not hold a franchise.

(2) This subdivision does not apply to a transaction involving the following:

(A) A mobilehome.

(B) A commercial coach, as defined in Section 18001.8 of the Health and Safety Code.

(C) An off-highway motor vehicle subject to identification as defined in Section 38012.

(D) A manufactured home.

(E) A new vehicle that will be substantially altered or modified by a converter prior to resale.

(F) A commercial vehicle with a gross vehicle weight rating of more than 10,000 pounds.

(G) A vehicle purchased for export and exported outside the territorial limits of the United States without being registered with the department.

(H) A vehicle acquired in the ordinary course of business as a new vehicle by a dealer franchised to sell that vehicle, if all of the following apply:

(i) The manufacturer or distributor of the vehicle files a bankruptcy petition.

(ii) The franchise agreement of the dealer is terminated, canceled, or rejected by the manufacturer or distributor as part of the bankruptcy proceedings and the termination, cancellation, or rejection is not a result of the revocation by the department of the dealer's license or the dealer's conviction of a crime.

(iii) The vehicle is held in the inventory of the dealer on the date the bankruptcy petition is filed.

(iv) The vehicle is sold by the dealer within six months of the date the bankruptcy petition is filed.

(3) Subparagraph (H) of paragraph (2) does not entitle a dealer whose franchise agreement has been terminated, canceled, or rejected to continue to perform warranty service repairs or continue to be eligible to offer or receive consumer or dealer incentives offered by the manufacturer or distributor.

(g) Sell a park trailer, as specified in Section 18009.3 of the Health and Safety Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) Advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. "Free" includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) (1) Advertise vehicles, and related goods or services, at a specified dealer price, with the intent not to supply reasonably expectable demand, unless the advertisement discloses the number of vehicles in stock at the advertised price. In addition, whether or not there are sufficient vehicles in stock to supply a reasonably expectable demand, when phrases such as "starting at," "from," "beginning as low as," or words of similar import are used in reference to an advertised price, the advertisement shall disclose the number of vehicles available at that advertised price.

(2) For purposes of this subdivision, in a newspaper advertisement for a vehicle that is two model-years old or newer, the actual phrase that states the number of vehicles in stock at the advertised price shall be printed in a type size that is at least equal to one-quarter of the type size, and in the same style and color of type, used for the advertised price. However, in no case shall the phrase be printed in less than 8-point type size, and the phrase shall be disclosed immediately above, below, or beside the advertised price without intervening words, pictures, marks, or symbols.

(3) The disclosure required by this subdivision is in addition to any other disclosure required by this code or any regulation regarding identifying vehicles advertised for sale.

(j) Use "rebate" or similar words, including, but not limited to, "cash back," in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor, a finance company affiliated with a vehicle manufacturer or distributor, a regulated utility, or a governmental entity directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, "cash price" has the same meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(l) Advertise a guaranteed trade-in allowance.

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) Use "invoice," "dealer's invoice," "wholesale price," or similar terms that refer to a dealer's cost for a vehicle in an advertisement for the sale of a vehicle or advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer's or distributor's invoice price to a dealer.

(B) A dealer's cost.

(2) This subdivision does not apply to either of the following:

(A) A communication occurring during face-to-face negotiations for the purchase of a specific vehicle if the prospective purchaser initiates a discussion of the vehicle's invoice price or the dealer's cost for that vehicle.

(B) A communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a "commercial purchaser" means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who purchases 10 or more vehicles during a year.

(o) Violate a law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) Make an untrue or misleading statement indicating that a vehicle is equipped with all the factory-installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is "fully factory equipped."

(q) Except as provided in Section 24014, affix on a new vehicle a supplemental price sticker containing a price that represents the dealer's asking price that exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental sticker lists each item that is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer's suggested retail price and the price of the items added by the dealer, the supplemental sticker price shall set forth that difference and describe it as "added mark-up."

(r) Advertise an underselling claim, including, but not limited to, "we have the lowest prices" or "we will beat any dealer's price," unless the dealer has conducted a recent survey showing that the dealer sells its vehicles at lower prices than another licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) (1) Advertise an incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

(2) For purposes of this subdivision, "incentive" means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) Display or offer for sale a used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

(u) Fail to disclose in writing to the franchisor of a new motor vehicle dealer the name of the purchaser, date of sale, and the vehicle identification number of each new motor vehicle sold of the line-make of that franchisor, or intentionally submit to that franchisor a false name for the purchaser or false date for the date of sale.

(v) Enter into a contract for the retail sale of a motor vehicle unless the contract clearly and conspicuously discloses whether the vehicle is being sold as a new vehicle or a used vehicle, as defined in this code.

(w) Use a simulated check, as defined in subdivision (a) of Section 22433 of the Business and Professions Code, in an advertisement for the sale or lease of a vehicle.

(x) Fail to disclose, in a clear and conspicuous manner in at least 10-point boldface type on the face of a contract for the retail sale of a new motor vehicle that this transaction is, or is not, subject to a fee received by an autobroker from the selling new motor vehicle dealer, and the name of the autobroker, if applicable.

(y) Sell or lease a new motor vehicle after October 1, 2012, unless the dealer has a contractual agreement with the department to be a private industry partner pursuant to Section 1685. This subdivision does not apply to the sale or lease of a motorcycle or off-highway motor vehicle subject to identification under Section 38010 or a recreational vehicle as defined in Section 18010 of the Health and Safety Code.

(z) As used in this section, "make" and "model" have the same meaning as is provided in Section 565.12 of Title 49 of the Code of Federal Regulations.

**SEC. 2.** Section 24014 of the Vehicle Code is amended to read:

**24014.** (a) A dealer shall not sell, offer for sale, or display, any new, assembled motorcycle on its premises, unless there is securely attached to its handlebar a label, in the form of a hang tag, approved by the Department of Motor Vehicles, furnished by the manufacturer, on which the manufacturer shall clearly indicate the following for that specific motorcycle:

(1) The recommended retail price of the motorcycle.

(2) The recommended price for each accessory or item of optional equipment physically attached to the motorcycle at the time of its delivery to the dealer.

(3) The manufacturer's suggested retail price for the motorcycle, which is the sum of the prices in paragraphs (1) and (2).

(4) The vehicle identification number.

(b) A dealer shall not affix to a new motorcycle a supplemental price label containing a price that represents the dealer's asking price that exceeds the manufacturer's suggested retail price unless the label is in compliance with all of the following:

(1) The supplemental price label, in lieu of the supplemental sticker provided for in subdivision (q) of Section 11713.1, is securely attached to the handlebar of the motorcycle in a way that does not prevent access to the manufacturer's hang tag and clearly and conspicuously discloses in the largest print appearing on the label, other than the print size used for the dealer's name, that the supplemental label price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental label clearly and conspicuously discloses the manufacturer's suggested retail price.

(3) The supplemental label lists each item for which the dealer imposes a charge that is not included in the manufacturer's suggested retail price, and discloses the additional price of each item, including, but not limited to, the amount charged by the dealer for assembly, preparation, or both, and the amount charged by the dealer for transportation to the dealership. Charges disclosed shall be net of reimbursement received by the dealer from the manufacturer.

(4) If the supplemental label price is greater than the sum of the manufacturer's suggested retail price and the price of the items disclosed pursuant to paragraph (3), the supplemental label shall set forth that difference and describe it as "added mark-up."

**SEC. 3.** 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.