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AB-2873 Personal vehicle sharing: recalled vehicles. (2017-2018)

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Assembly Bill No. 2873

CHAPTER 591

An act to amend Sections 11752, 11754, and 11760 of the Vehicle Code, relating to personal vehicle sharing.

[Approved by Governor September 20, 2018. Filed with Secretary of State September 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2873, Low. Personal vehicle sharing: recalled vehicles.

Existing law generally governs the transactions between a rental car company, also referred to as a rental company, and its customers. Existing law, the Consumer Automotive Recall Safety Act (CARS Act), prohibits a dealer or rental car company, as defined, with a motor vehicle fleet of 34 or fewer loaner or rental vehicles from loaning, renting, or offering for loan or rent a vehicle subject to a manufacturer's recall after receiving a notice of the recall, as specified, until the vehicle has been repaired, with exceptions. Existing law requires a personal vehicle sharing program, which facilitates the sharing of private passenger vehicles for noncommercial use, to provide specified insurance coverage for a vehicle and driver while the vehicle is engaged in personal ride sharing. Under existing law, it is an infraction for a person to violate, or fail to comply with, a provision of the Vehicle Code, unless otherwise specified.

This bill would prohibit, as soon as practicable but not more than 48 hours after a vehicle is subject to a manufacturer's recall and a recall notice has been issued by the manufacturer and appears in the National Highway Traffic Safety Administration recall database, or not more than 48 hours after receiving notification of a manufacturer's recall by a specified third party, a personal vehicle sharing program, as defined, from facilitating or arranging for transportation with that vehicle until after any recall notices for that vehicle no longer appear in the National Highway Traffic Safety Administration recall database. By creating new prohibitions, the violation of which would be a crime under existing law, this bill would impose a state-mandated local program.

The CARS Act provides that it does not create any legal duty upon the dealer, rental car company, or the Department of Motor Vehicles related to the accuracy, errors, or omissions contained in a recall database report or any legal duty to provide information added to a recall database after the dealer, rental car company, or department obtained the recall database report.

This bill would additionally provide that the CARS Act does not create any legal duty upon a personal vehicle sharing program related to the accuracy, errors, or omissions contained in a recall database report or any legal duty to provide information added to a recall database after a personal vehicle sharing program obtained the recall database report.

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 11752 of the Vehicle Code is amended to read:

11752. As used in this article, the following definitions apply:

(a) The term “dealer” has the same meaning as in Section 285.

(b) (1) A “manufacturer’s recall” is a recall conducted pursuant to Sections 30118 to 30120, inclusive, of Title 49 of the United States Code.

(2) A manufacturer’s recall does not include a service campaign or emission recall when the vehicle manufacturer or the National Highway Traffic Safety Administration has not issued a recall notice to owners of affected vehicles, pursuant to Section 30118 of Title 49 of the United States Code.

(c) A “personal vehicle sharing program” has the same meaning as defined in Section 11580.24 of the Insurance Code.

(d) A “recall database” is a database from which an individual may obtain vehicle identification number (VIN) specific manufacturer’s recall information relevant to a specific vehicle.

(1) For a vehicle manufacturer that is not subject to the regulations adopted pursuant to Section 31301 of the federal Moving Ahead for Progress in the 21st Century Act (Public Law 112-141), a recall database is one of the following:

(A) The recall data on a vehicle manufacturer’s Internet Web site for a specific vehicle’s line-make.

(B) The recall data in a vehicle manufacturer’s internal system that provides information to its franchisees on vehicles subject to recall.

(C) The recall data in subparagraph (A) or (B) that is contained in a commercially available vehicle history system.

(2) For a vehicle manufacturer that is subject to the regulations adopted pursuant to Section 31301 of the federal Moving Ahead for Progress in the 21st Century Act (Public Law 112-141), a recall database shall include, at a minimum, the recall information required pursuant to Section 573.15 of Title 49 of the Code of Federal Regulations.

(e) A “recall database report” is a report, specific to a vehicle that is identified by its VIN, containing information obtained from a recall database.

(f) A “rental car company” is a person or entity in the business of renting passenger vehicles to the public in California.

SEC. 2. Section 11754 of the Vehicle Code is amended to read:

11754. (a) No later than 48 hours after receiving a notice of a manufacturer’s recall, or sooner if practicable, a dealer or rental car company with a motor vehicle fleet of 34 or fewer loaner or rental vehicles shall not loan, rent, or offer for loan or rent a vehicle subject to that recall until the recall repair has been made.

(b) If a recall notification indicates that the remedy for the recall is not immediately available and specifies actions to temporarily repair the vehicle in a manner to eliminate the safety risk that prompted the recall, the dealer or rental car company, after having the repairs completed, may loan or rent the vehicle. Once the remedy for the vehicle becomes available to the dealer or rental car company, the dealer or rental car company shall not loan or rent the vehicle until the vehicle has been repaired.

(c) As soon as practicable but not more than 48 hours after a vehicle is subject to a manufacturer’s recall, as defined in subdivision (b) of Section 11752, and a recall notice has been issued by the manufacturer and appears in the recall database provided by the National Highway Traffic Safety Administration pursuant to Section 573.15 of Title 49 of the Code of Federal Regulations, or not more than 48 hours after the personal vehicle sharing program receives notification of a manufacturer’s recall by a third party with which the personal vehicle sharing program contracts to provide notification of active recalls, a personal vehicle sharing program shall not facilitate or otherwise arrange for transportation with that vehicle until after any recall notices for that vehicle no longer appear in the recall database provided by the National Highway Traffic Safety Administration.

(d) The changes to this section made by the act adding subdivision (c) shall not apply in any manner to pending litigation.

(e) This section does not affect the determination of whether or not a company is a rental car company or whether or not a company is a personal vehicle sharing company.

SEC. 3. Section 11760 of the Vehicle Code is amended to read:

11760. (a) This article shall not create any legal duty upon the dealer, rental car company, personal vehicle sharing program, or department related to the accuracy, errors, or omissions contained in a recall database report or any legal duty to provide information added to a recall database after the dealer, rental car company, personal vehicle sharing program, or department obtained the recall database report pursuant to Sections 11754 and 11758.

(b) The changes to this section made by the act amending subdivision (a) shall not apply in any manner to pending litigation.

(c) This section does not affect the determination of whether or not a company is a rental car company or whether or not a company is a personal vehicle sharing program.

SEC. 4. 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.