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SB-26 Civil actions: restitution for or replacement of a new motor vehicle. (2025-2026)

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Senate Bill No. 26

CHAPTER 1

An act to amend Sections 871.20 and 871.24 of, and to add Sections 871.29 and 871.30 to, the Code of Civil Procedure, relating to civil actions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 02, 2025. Filed with Secretary of State April 02, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

SB 26, Umberg. Civil actions: restitution for or replacement of a new motor vehicle.

(1) Existing law prescribes specified procedures to govern actions seeking the restitution for or replacement of a new motor vehicle, or for civil penalties, pursuant to the provisions of the Song-Beverly Consumer Warranty Act or Tanner Consumer Protection Act. Beginning April 1, 2025, existing law will require the consumer to, prior to seeking civil penalties, provide a written notice to the manufacturer that, among other things, demands the manufacturer's restitution for or replacement of the consumer's vehicle.

This bill would provide that certain procedures described above would instead become operative on July 1, 2025. The bill would specify that the procedures described above would apply to the manufacturer of a motor vehicle only if the manufacturer elects to be governed by those procedures by reporting the election to the Arbitration Certification Program within the Department of Consumer Affairs. The bill would require a manufacturer that wishes to make this election regarding its motor vehicles sold in the year 2025 and all prior years to make the election within 30 days after the effective date of this bill. Thereafter, the bill would require a manufacturer that wishes to make this election to make an irrevocable election, as specified, regarding motor vehicles sold during the five calendar years following the date of the election. The bill would require the Arbitration Certification Program within the Department of Consumer Affairs, by December 15 of each year, to publish to its website a list of the manufacturers that have elected to be governed by the procedures described above for a period that includes the following calendar year.

(2) Under existing law, beginning April 1, 2025, a consumer who demands restitution for or replacement of a new motor vehicle may, if specified conditions are met, instead sell the vehicle and seek remedies against the manufacturer, including civil penalties.

This bill would change the operative date of that provision to July 1, 2025. The bill would prohibit a consumer who sells their vehicle after demanding restitution or replacement from seeking civil penalties unless the consumer provides to the prospective buyer or recipient of the vehicle, prior to the sale, written notice of the consumer's basis for seeking restitution or replacement and of any pending action against the manufacturer, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. It is the intent of the Legislature to evaluate the provisions of Assembly Bill 1755 of the 2023–24 Regular Session and Senate Bill 26 of the 2023–24 Regular Session beginning on January 1, 2029, to determine outcomes; the effect of the law on consumers who purchase motor vehicles, the effect of the law on the manufacturers of those vehicles, and the effect of the law on the courts; whether the procedures outlined by the bills cause harm; and to establish whether the law is functioning as intended or should be reevaluated or repealed.

SEC. 2. Section 871.20 of the Code of Civil Procedure is amended to read:

871.20. (a) Notwithstanding any other law, this chapter applies to an action, brought against a manufacturer who has elected under Section 871.29 to proceed under this chapter, seeking restitution or replacement of a motor vehicle pursuant to subdivision (b) or (d) of Section 1793.2, Section 1793.22, or Section 1794 of the Civil Code, or for civil penalties pursuant to subdivision (c) of Section 1794 of the Civil Code, where the request for restitution or replacement is based on noncompliance with the applicable express warranty.

(b) This chapter does not apply to service contract claims under Section 1794 of the Civil Code or any action seeking remedies that are not restitution or replacement of a motor vehicle.

SEC. 3. Section 871.24 of the Code of Civil Procedure is amended to read:

871.24. (a) At least 30 days prior to the commencement of an action seeking civil penalties under subdivision (c) of Section 1794 of the Civil Code, the consumer shall do all of the following:

(1) Notify the manufacturer of the consumer's name, the accurate Vehicle Identification Number ("VIN") of the motor vehicle, and a brief summary of the repair history and problems with the motor vehicle.

(2) Demand that the manufacturer repurchase or replace the motor vehicle.

(b) Minor deviations in the notice submitted pursuant to subdivision (a) shall not disqualify consumers from seeking civil penalties.

(c) At the time that the notice submitted pursuant to subdivision (a) is sent, the consumer shall have possession of the motor vehicle.

(d) The notice required by subdivision (a) shall be in writing and shall be sent either by email to the email address prominently displayed on the manufacturer's website for this purpose or by certified or registered mail, return receipt requested, to the address provided by the manufacturer in the owner's manual or warranty booklet. The notice information on the manufacturer's website, owner's manual, and warranty booklet shall be provided in both English and Spanish.

(e) (1) A request for or action seeking civil penalties under subdivision (c) of Section 1794 of the Civil Code shall not be allowed or maintained if both of the following conditions are present:

(A) Within 30 days after receipt of the notice, the manufacturer makes an offer of restitution or replacement of the motor vehicle for the amount provided by subdivision (d) of Section 1793.2 of the Civil Code and Section 871.27, plus reasonable attorney's fees and costs, if the consumer is represented by an attorney.

(B) The motor vehicle replacement or restitution is completed within 60 days from the date of receipt of the original notice.

(2) The consumer shall comply in good faith with reasonable requests from the manufacturer for documentation required to complete the requested restitution or replacement of the motor vehicle.

(f) A prelitigation dispute as to attorney's fees and costs shall be resolved by neutral, binding arbitration. A dispute as to the amount of attorney's fees and costs shall not, by itself, be a sufficient basis to show that the manufacturer's offer is out of compliance with this section.

(g) The consumer shall maintain possession of the motor vehicle for at least 30 days after the manufacturer's receipt of written notice seeking restitution or replacement.

(1) If the manufacturer does not offer restitution or replacement of the motor vehicle within 30 days of receiving the consumer's notice, the consumer shall be permitted to sell their motor vehicle and seek remedies, including, but not limited to, civil penalties under subdivision (c) of Section 1794 of the Civil Code.

(2) If the manufacturer offers restitution or replacement of the motor vehicle, the consumer shall maintain possession of the motor vehicle for the full 60 days after the manufacturer's receipt of the consumer's notice.

(h) An action seeking restitution or replacement under Section 871.20 may be commenced without compliance with subdivision (a). In that event, the consumer shall have possession of the motor vehicle at the time of the filing of the complaint, and shall not seek civil penalties, whether by amendment of the complaint or otherwise. If, however, notice is provided pursuant to subdivision (a) and the manufacturer fails to comply with their obligations under subdivision (e), the consumer may commence an action for restitution or replacement, including, but not limited to, civil penalties under subdivision (c) of Section 1794 of the Civil Code.

(i) If a consumer sells their vehicle as authorized by subdivision (g), the consumer may not seek civil penalties under subdivision (c) of Section 1794 of the Civil Code unless the consumer provided to the prospective buyer or recipient of the vehicle, prior to the sale, written notice of the basis for the consumer's request for restitution or replacement from the manufacturer and of any pending action described in subdivision (a) of Section 871.20.

(j) A consumer shall act in good faith in order to comply with this section.

(k) This section shall become operative on July 1, 2025.

SEC. 4. Section 871.29 is added to the Code of Civil Procedure, to read:

871.29. (a) (1) A manufacturer may elect to be governed by this chapter for all actions described in subdivision (a) of Section 871.20 with respect to all of the manufacturer's motor vehicles sold during a period of five consecutive calendar years by providing written notice of that election to the Arbitration Certification Program within the Department of Consumer Affairs by October 31 of the preceding calendar year, except as provided in Section 871.30.

(2) A manufacturer who makes the election described in paragraph (1) may not revoke that election during the five-year period covered by the election, but the manufacturer may make a new election under paragraph (1) that will cover motor vehicles sold in a subsequent five-year period.

(b) Unless a manufacturer has made the election described in subdivision (a) that covers a given year, Sections 871.20 to 871.28, inclusive, shall not apply to an action described in subdivision (a) of Section 871.20 with respect to all of the manufacturer's motor vehicles sold during that year, except as provided in Section 871.30.

(c) By December 15 of each year, the Arbitration Certification Program within the Department of Consumer Affairs shall publish to its website a list of the manufacturers that have elected to proceed under this chapter for a period that includes the following calendar year, except as provided in Section 871.30.

(d) At the time a motor vehicle is sold new, a manufacturer shall provide notice to a consumer specifying which one of the following procedures governs the vehicle:

(1) The procedures set forth in this chapter.

(2) The procedures set forth in Article 3 (commencing with Section 1792) of Chapter 1 of Title 1.7 of Part 4 of Division 3 of the Civil Code.

SEC. 5. Section 871.30 is added to the Code of Civil Procedure, to read:

871.30. (a) Within 30 days of the effective date of the act adding this section, a manufacturer may elect to be governed by this chapter for all actions described in subdivision (a) of Section 871.20 with respect to all of its motor vehicles sold in the year 2025 and in all prior years by providing written notice of that election to the Arbitration Certification Program within the Department of Consumer Affairs.

(b) Within 60 days of the effective date of the act adding this section, the Arbitration Certification Program within the Department of Consumer Affairs shall publish to its website the list of all manufacturers that have elected under subdivision (a) to proceed under this chapter for actions related to motor vehicles sold in the year 2025 and in all prior years.

(c) Unless a manufacturer has made the election described in subdivision (a), Sections 871.20 to 871.28, inclusive, shall not apply to an action described in subdivision (a) of Section 871.20, including actions already filed between January 1, 2025 and the effective date of the act adding this section, with respect to all of its vehicles sold new in the year 2025 and in all prior years.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Certain provisions of Assembly Bill 1755 of the 2023–24 Regular Session, which prescribes specified procedures to govern actions seeking the restitution for or replacement of a new motor vehicle, do not become operative until April 1, 2025. To ensure that manufacturers of new motor vehicles have sufficient time to opt out of those procedures before April 1, 2025, as permitted by this act, it is necessary for this act to take effect immediately.