

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 08/06/2012
POSITION: Oppose

BILL NUMBER: SB 956
AUTHOR: Lieu, Ted

BILL SUMMARY: Buy-here-pay-here automobile sellers and lenders.

This bill would define a buy-here-pay-here vehicle dealer and require the dealer to also be licensed as a finance lender by the Department of Corporations.

FISCAL SUMMARY

The Department of Corporations estimates first year start-up costs to range between \$327,000 to \$375,000, and ongoing costs of \$670,000 to fund 5.5 positions. This is based on an assumption that approximately 3,000 vehicle dealers, or about 25 percent of licensed dealers, could be required to obtain finance lending licenses. The department is authorized to charge fees to licensees to recover their regulatory costs.

COMMENTS

The Department of Finance opposes this bill because it would subject vehicle dealers to overlapping state regulations and could lead to the unintended consequence of reducing the availability of vehicles for consumers with poor credit ratings. There has been no showing that the practices recently reported in the media are widespread, or, if so, that they are limited to vehicle dealers who are self-financing vehicles. Loans provided by vehicle dealers are regulated by the Department of Motor Vehicles (DMV), and failure to provide full disclosure of the financing terms is grounds for discipline. Maintaining multiple surety bonds, as would be required by this bill, may cause some vehicle dealers to cease operations.

Existing law:

- Authorizes the DMV to license vehicle dealers, and requires dealers to maintain a \$50,000 surety bond.
- Establishes requirements for the content of a conditional sales contract for the sale of a vehicle, including disclosures, purchase price, fees, finance charges, and warranty information.
- Requires a dealer selling a used vehicle valued at less than \$40,000 to offer the buyer a two-day contract cancellation option agreement, under which the buyer may return the vehicle without cause if certain conditions are met.
- Requires the Department of Corporations to regulate the finance lending industry, except that vehicle dealers are exempt because they provide loans through a conditional sales contracts for the disposition of personal property. Finance lenders must maintain a \$25,000 surety bond, and loans of under \$5,000 are subject to interest rate caps.

Analyst/Principal (0744) K. Amann	Date	Program Budget Manager Kristin Shelton	Date
Department Deputy Director			Date
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

Lieu, Ted

08/06/2012

SB 956

COMMENTS (continued)**This bill would:**

- Define a buy-here-pay-here vehicle dealer to mean an automobile seller who enters into conditional sale or lease contracts, and who does not assign at least 90 percent of contracts to an unaffiliated third-party finance or leasing source, unless the dealer certifies all vehicles and maintains an on-site repair facility.
- Require a buy-here-pay-here dealer to be licensed as a finance lender by the Department of Corporations.

Discussion: Recent articles in the Los Angeles Times have detailed bad business practices of so-called "buy-here-pay-here" dealers. According to the articles, these dealers specialize in selling and financing vehicles for customers that have bad credit. The article indicated that dealers charge high prices for older vehicles, charge high interest rates, and equip vehicles with GPS or ignition override devices to make it easier to repossess the vehicles. The article estimates that 25 percent of buyers default on these vehicle loans.

DMV points out that there has not been an overall study of the frequency of these business practices in the vehicle sales industry that would indicate how widespread these practices are or whether the practices are isolated to only buy-here-pay-here dealers. A vehicle dealer is required to accurately identify financing terms, and DMV has authority to discipline dealers who do not do so.

Related Legislation: AB 1447 (Feuer) would require "buy-here-pay-here" automobile dealers from requiring buyers to make payments in person and require those dealers to provide a written warranty for 30 days or 1,000 miles. The bill would also prohibit those dealers from using GPS technology and disabling the vehicle ignition override technology without first warning the buyer.

AB 1534 (Wieckowski) would require "buy-here-pay-here" automobile dealers to affix a label to every used vehicle that states the reasonable market value of that vehicle determined using a nationally recognized pricing guide.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)						
	LA	(Dollars in Thousands)						
	CO	PROP					Fund	
	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014
								Code
1257/Othr Reg Lic	RV	No	L	335	L	670	L	670 0067
2180/Corporations	SO	No	A	335	A	670	A	670 0067
<u>Fund Code</u>	<u>Title</u>							
0067	Corporations Fund, State							