STATE OF CALIFORNIA

DMV

DEPARTMENT OF MOTOR VEHICLES

*A Public Service Agency*

# VEHICLE REMANUFACTURER PROGRAM HANDBOOK

# APPLICATION REQUIREMENTS FOR VEHICLE REMANUFACTURER LICENSE

## PURPOSE

The purpose of this pamphlet is to assist the prospective remanufacturer by describing the requirements to obtain a vehicle remanufacturer license from the Department of Motor Vehicles (DMV).

## WHAT IS A REMANUFACTURER?

A "vehicle remanufacturer" is any person who produces a vehicle consisting of used or reconditioned parts subject to registration under the California Vehicle Code Section 507.8.

## BACKGROUND INVESTIGATION

A background investigation is conducted on all applicants. Failure to disclose convictions or providing incorrect information on the application may result in the refusal or denial of your license. The department may refuse to issue a license to any applicant who has been convicted of a crime or committed any act or engaged in any conduct involving moral turpitude which is substantially related to the qualifications or duties of the licensed activity. A conviction based on plea of nolo contendere is a conviction within the meaning of this section. *CVC § 11703, 11703 (c), 11705 (a)(1).* Persons previously working under a license issued by DMV, which was revoked or suspended for cause may also be denied a license. In addition, the California Code of Regulations (CCR) and other sections of the California Vehicle Code provides guidelines used by the department in determining whether a license should be issued. *CCR, Title 13, Chapter 1.*

## REQUIREMENTS FOR A VEHICLE REMANUFACTURERS LICENSE

*CVC Sections 9262 and 11700 et seq.*

Every applicant for a vehicle remanufacturer's license must:

- File an application with the department.
- Pay all required fees.
- Provide surety bond verification ($25,000 bond executed). *CVC § 11710(a), 11710(b), 11710.2 et seq.*
- Provide a list of enfranchised dealers. *CVC § 11701 and 11710*

## VEHICLE REMANUFACTURER'S LICENSING FEES

The fees to become a licensed vehicle remanufacturer are:

- $100 Non-refundable application fee
- $ 1 For Family Support Program
- $ 50 For each branch location (if applicable)
- $ 31 Special plates (each plate) (plus any county fees, if applicable)

The Family Support Program fee is paid on original, renewal, and reinstatement applications.

## VEHICLE REMANUFACTURER'S LICENSE FORMS

An application for a vehicle remanufacturer license consists of the following forms:

- **OL 21A**, Application for Occupational License, Part A.
- **OL 29**, Personal History Questionnaire, Part B.
- **OL 12**, Applicant for Occupational License, Part C
- **OL 25A** Surety Bond Verification ($25,000 bond executed) *CVC Section 11710*

- **OL 107**, Corporate Declaration/Limited Liability Company Declaration
- **OL 126**, Certification (out of state only)
- Live Scan Fingerprint Receipt
- **ADM 1316**, Fingerprint Card (**out of state only**)

## VEHICLE REMANUFACTURER RENEWAL FEES

The fees to renew a vehicle remanufacturer license are:

- $ 1 For Family Support Program
- $ 85 Renewal application fee
- $ 31 Renewal of special plates (each plate) (plus any county fees, if applicable)
- $ 50 Renewal of branch location (each location)

The Family Support Program fee is paid on original, renewal, and reinstatement applications.

## FEES TO CHANGE A VEHICLE REMANUFACTURER'S LICENSE

The fees to change a vehicle remanufacturer license are:

- $ 50 Name change
- $ 50 Address change
- $ 50 Add a branch
- $ 70 Officer Change
- $ 42 Fingerprints (required at Live Scan site if officer change and not previously licensed within last three years)
- $42 Fingerprints (**if out of state only**)

## FORMS TO CHANGE A VEHICLE REMANUFACTURER'S LICENSE

Form(s) to change your existing vehicle remanufacturer license:

- **OL 21**, Application for Modification to Occupational License
- **OL 22**, Application for Additional Special Plates, Replacement Special Plates, Sticker Only, and Duplicate Registration Card
- **OL 247**, Lost, Stolen or Surrendered Plates
- **OL 15**, Certificate of Corporate Officers and/or Directors in Lieu of Corporate Minutes
- **OL 15A**, Certificate in Lieu of Certificate of Amendment to Articles of Organization, Limited Liability Company

## ADDITIONAL ITEMS

The following items are also needed as part of the application package:

- Brochure or drawing of the manufactured product (include the name)
- Copy of 17 digit Vehicle Identification Number
- Listing of the major components that are used or rebuilt
- Provide the following documents if firm is incorporated in a state other than California
  - ⑧ Articles of Incorporation
  - ⑧ Certification from incorporating state's Secretary of State that the corporation is in good standing
  - ⑧ Photo of the manufacturing facility

- "Place of Business" Inspection. After you have arranged an appointment with an Occupational Licensing Inspector he or she will:

  ⑧ Inspect the place of business where the manufacturer conducts business. *CVC § 320 (a), 1670, and 1671*

**NOTE**: Place of Business Inspection is within California only.

## VEHICLE REMANUFACTURER LICENSE - FREQUENTLY ASKED QUESTIONS

Listed below are the most frequently asked questions. This list is not all inclusive nor is it intended to be. If you have any questions, please contact your local Inspector or call (916) 657-6530.

**Where can I obtain application forms?**

All forms and application packages can be ordered by calling (916) 657-6530 or printed or downloaded from the internet. Further licensing information is contained in the application package.

**How long will it take for the department to process my application?**

The average time for processing an application may be up to 120 days to allow the Department time for investigation and processing of the license.

**Does the department issue temporary permits?**

Pending the satisfaction of the department that the applicant has met the requirements for the license, the department may issue a temporary permit for a period not to exceed 120 days while it completes its investigation and determination of all facts relative to the qualifications of the applicant for the license. *CVC Section 11719*

**Where do I file my application?**

Application packages for vehicle remanufacturers are submitted to Occupational Licensing Inspectors.

Out of state remanufacturers are submitted directly to:

Occupational Licensing
P.O. Box 932342 MS N224
Sacramento, CA 94232-3420

**Where do I call if I have questions?**

If you have general licensing questions please call (916) 657-6530.

**What is the license renewal period?**

The vehicle remanufacturer's license is renewed annually, based on the month the original license was issued. Renewals should be made before the expiration of the license. If you do not renew your license before it expires, you may renew your license within thirty (30) days following the expiration date by paying the annual renewal fee and a penalty equal to 100 percent of the original application fee. Renewals will not be accepted for licenses that have been expired for more than 30 days.

**How do I renew my license?**

About 45 days before the expiration of your license you should receive a courtesy notice for renewal. After you complete the courtesy notice, you will need to mail your renewal form and fees to:

Department of Motor Vehicles
Occupational Licensing Branch
P.O. Box 932342 N224
Sacramento, CA 94232-3420

If you do not receive a courtesy notice please call (916) 657-6530.

**How do I get additional plates, replacement plates, stickers only, or a duplicate registration card?**

You will need to fill out form OL 22 for additional plates, replacement plates, stickers only, or a duplicate registration card and submit to an Inspector or mail to:

Department of Motor Vehicles
Occupational Licensing Branch
P.O. Box 932342 N224
Sacramento, CA 94232-3420

**What is live scan fingerprinting?**

Live Scan is inkless electronic fingerprinting. The fingerprints are electronically transmitted to the Department of Justice (DOJ) for completion of a criminal record check.

**Who is affected by it?**

Anyone applying for the first time to be licensed as a vehicle salesperson, dealer, driving instructor or any other vehicle industry related occupation licensed by DMV will be live scan fingerprinted. It also applies to first time applicants for an ambulance driver certificate.

**Why "Live Scan" fingerprinting?**

As a result of legislation in late 1997, DOJ has developed an automated background check process that requires digitized fingerprints ("Live Scan"). Beginning January 1, 2000, DOJ has asked that fingerprints be submitted by Live Scan rather than hard copy fingerprint cards. Digitizing the fingerprints enables the electronic transfer of the fingerprint image data along with personal descriptor information to computers at the DOJ in a matter of seconds, instead of the days required to send hard copy fingerprint cards through the mail. DOJ's goal is to process 95% of the digitized fingerprints within 3 days.

**When does it start?**

Live scan fingerprinting for DMV applicants will start January 1, 2000.

**What is the cost to be live scan fingerprinted?**

The live scan fingerprinting service fee varies from about $5 to $20. The cost to electronically fingerprint the applicant is determined by the local live scan agency. According to DOJ, they can charge a fee sufficient to recover their costs. The $32 DOJ criminal record check fee is also collected at the live scan site.

**What will the applicant need to do to be live scan fingerprinted?**

The applicant can call the local police or sheriff's department to find their local Live Scan sites that are open to the general public. The applicant can also call the department's Occupational Licensing offices in Sacramento (916) 657-6621 or Los Angeles (213) 744-7563 and be mailed the department's live scan request form. A sample of the department's live scan form can be found on the Internet. If the licensee does not use the department's live scan form, it is suggested that he/she take a sample of the form with them to ensure the live scan has all the information needed for transmitting the data to Occupational Licensing.

***Note: the applicant must go to a Live Scan site to be Live Scan fingerprinted before applying for an occupational license at DMV. If you have held an Occupational License issued by DMV in the past 3 years, you may not require a new set of prints.***

**Where are the live scan sites?**

There are more than 130 live scan sites throughout the state. A current list of DOJ's Live Scan stations is available through DOJ's internet web page. The internet address is:

http://caag.state.ca.us/app/contact.pdf

Or, you may call your local police or sheriff's department for the nearest Live Scan station that is available to the general public.

**What are the benefits of Live Scan?**

Live Scan will avoid many of the problems associated with ink prints, such as smudging, smearing, and over or under inking. A major benefit of Live Scan is in processing speed since nearly all of those without criminal records are done within 3 days. Rolled ink prints (traditionally submitted on a fingerprint card) can take 10 to 12 days to process and up to 60 days if there is a criminal record.

## VEHICLE REMANUFACTURER LICENSING AUTHORITY

California Vehicle Code. Sections 29, 320 (a), 507.5, 507.8 and 11700 et seq. The California Vehicle Code is available for purchase from the Department of Motor Vehicles.

*Method of Giving Notice*

29. Whenever any notice or other communication is required by this code to be mailed by registered mail by or to any person or corporation, the mailing of such notice or other communication by certified mail shall be deemed to be a sufficient compliance with the requirements of law.

*Added Ch. 426, Stats. 1959. Effective September 18, 1959. Supersedes Ch. 400, Stats. 1959.*

*Established Place of Business*

320. "Established place of business" is a place actually occupied either continuously or at regular periods by any of the following:

(a) A dealer, remanufacturer, remanufacturer branch, manufacturer, manufacturer branch, distributor, distributor branch, automobile driving school, or traffic violator school where the books and records pertinent to the type of business being conducted are kept.

*Amended Ch. 1243, Stats. 1992. Effective September 30, 1992.*

*Remanufactured Vehicle*

507.5. A "remanufactured vehicle" is a vehicle that has been constructed by a licensed remanufacturer and consists of any used or reconditioned integral parts, including, but not limited to, frame, engine, transmission, axles, brakes, or suspension. Remanufactured vehicles may be sold under a distinctive trade name. An existing vehicle which is incidently repaired, restored, or modified by replacing or adding parts or accessories is not a remanufactured vehicle.

*Added Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Remanufacturer*

507.8. A "remanufacturer" is any person who for commission, money, or other thing of value, produces a vehicle that consists of any used or reconditioned integral parts, including, but not limited to, frame, engine, transmission, axles, brakes, or suspension which is subject to registration under this code. A remanufacturer is not a person who incidently repairs, restores, or modifies an existing vehicle by replacing or adding parts or accessories.

*Added Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*License or Temporary Permit Required*

11700. No person shall act as a dealer, remanufacturer, manufacturer, or transporter, or as a manufacturer branch, remanufacturer branch, distributor, or distributor branch, without having first been issued a license as required in Section 11701 or temporary permit issued by the department, except that, when the license or temporary permit has been canceled, suspended, or revoked or has expired, any vehicle in the dealer's inventory and owned by the dealer when the dealer ceased to be licensed my be sold at wholesale to a licensed dealer. The former licensee shall give the purchasing dealer a statement of facts stating that the seller is not a licensed dealer. Any vehicle on consignment with the dealer when the dealer ceased to be licensed shall be returned to

the consignor. Any vehicle in the dealer's possession, but not owned by the dealer and not on consignment when the dealer ceased to be licensed, shall be returned to the owner of the vehicle.

*Amended Ch. 1563, Stats. 1990. Effective January 1, 1991.*

*Exemption*

11700.1. A dealer who does not have an established place of business in this state but who is currently authorized to do business as, and who has an established place of business as, a vehicle dealer in another state is not subject to licensure under this article if the business transacted in California is limited to the importation of vehicles for sale to, or the export of vehicles purchased from, persons licensed in California under this chapter.

*Added Ch. 1088, Stats. 1979. Effective September 28, 1979.*

*Dealer's License: Autobroker's Endorsement: Requirements and Prohibitions*

11700.2. A dealer who obtains an autobroker's endorsement to his or her dealer's license is subject to all of the licensing, advertising, and other statutory and regulatory requirements and prohibitions applicable to a dealer, regardless of whether that dealer acts as the buyer of a vehicle, the seller of a vehicle, or provides brokering services on behalf of another or others for the purpose of arranging, negotiating, assisting, or effectuating the sale of a vehicle not owned by that dealer.

*Added Sec. 4, Ch. 211, Stats. 1995. Effective January 1, 1996.*

*Application for License*

11701. Every manufacturer of, and manufacturer branch, remanufacturer of, and remanufacturer branch, distributor of, and distributor branch, transporter of, or dealer in vehicles of a type subject to registration, or snowmobiles or motorcycles of a type subject to identification, shall make application to the department for a license containing a general distinguishing number. The applicant shall submit proof of his or her status as a bona fide manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer as may reasonably be required by the department.

*Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Issuance or Refusal of License*

11702. The department may issue, or for reasonable cause shown, refuse to issue a license to any applicant applying for a manufacturer's, manufacturer's branch, remanufacturer's, remanufacturer's branch, distributor's, distributor's branch, transporter's, or dealer's license.

*Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Refusal to Issue: Grounds*

11703. The department may refuse to issue a license to a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer, if it determines any of the following:

(a) The applicant was previously the holder, or a managerial employee of the holder, of a license issued under this chapter which was revoked for cause and never reissued by the department, or which was suspended for cause and the terms of suspension have not been fulfilled.

(b) The applicant was previously a business representative of a business whose license issued under this chapter was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled.

(c) If the applicant is a business, a business representative of the business was previously the holder of a license, or was a business representative of a business whose license, issued under this chapter was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled; or, by reason of the facts and circumstances related to the organization, control, and management of the business, the operation of that business will be directed, controlled, or managed by individuals who, by reason of their conviction of violations of the provisions of this code, would be ineligible for a license and, by licensing the business, the purposes of this chapter would be defeated.

(d) The applicant, or a business representative if the applicant is a business, has been convicted of a crime or committed any act or engaged in any conduct involving moral turpitude which is substantially related to the qualifications, functions, or duties of the licensed activity. A conviction after a plea of nolo contendere is a conviction within the meaning of this section.

(e) The applicant was previously the holder of an occupational license issued by another state, authorizing the same or similar activities of a license issued under this division; and that license was revoked or suspended for cause and was never reissued, or was suspended for cause, and the terms of suspension have not been fulfilled.

(f) The information contained in the application is incorrect.

(g) Upon investigation, the business history required by Section 11704 contains incomplete or incorrect information, or reflects substantial business irregularities.

(h) A decision of the department to cancel, suspend, or revoke a license has been made and the applicant was a business representative of the business regulated under that license.

*Amended Ch. 1563, Stats. 1990. Effective January 1, 1991.*
*Amended Sec. 50, Ch. 877, Stats. 1998. Effective January 1, 1999.*

*Refusal to Issue: Additional Grounds*

11703.1. Any of the causes specified in this chapter as a cause to suspend or revoke the license issued to a dealer, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or transporter, is cause to refuse to issue a license to a dealer, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or transporter.

*Amended Ch. 1563, Stats. 1990. Effective January 1, 1991.*

*Refusal to Issue: Unsatisfied Final Judgment*

11703.2. The department may refuse to issue a license to a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer, when it determines that the applicant has outstanding an unsatisfied final judgment rendered in connection with the purchase, sale, or lease of any vehicle.

*Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Reapplication*

11703.3. A person whose license has been revoked or application for a license has been denied may reapply for a license after a period of not less than one year has elapsed from the effective date of the decision revoking the license or denying the application; except that if the decision was entered under the authority of subdivision (a), (b), (c), or (g) of Section 11703, or 11703.2, or paragraph (6) of subdivision (a) of Section 11705, a reapplication accompanied by evidence satisfactory to the department that such grounds no longer exist may be made earlier than such one-year period.

*Amended Ch. 934, Stats. 1976. Effective January 1, 1977.*

*Additional Grounds for Refusal*

11703.4. The department may refuse to issue a license to a dealer when it determines that an applicant for a dealer's license has failed to effectively endorse an authorization for disclosure of an account or accounts relating to the operation of the dealership as provided for in Section 7473 of the Government Code.

*Added Ch. 1320, Stats. 1976. Effective January 1, 1977.*

*Application for License*

11704. (a) Every applicant who applies for a license pursuant to Section 11701 shall submit an application to the department on the forms prescribed by the department. Such applicant shall provide the department with information as to the applicant's character, honesty, integrity, and reputation, as the department may consider necessary. The department, by regulation, shall prescribe what information is required of such an applicant for the purposes of this subdivision.

(b) Upon receipt of an application for a license which is accompanied by the appropriate fee, the department shall, within 120 days, make a thorough investigation of the information contained in the application.

(c) Every person holding a license issued pursuant to Section 11701 shall notify the department, within 10 days, of any change in the ownership or corporate structure of the licensee.

*Repealed and added Ch. 452, Stats. 1977. Effective January 1, 1978.*

*License: Education and Examination Requirement*

11704.5 **(a) ( )**[1] Except **as provided in subdivision (d), every person who applies for a dealer's license pursuant to Section 11701** for the purpose of transacting sales of used vehicles on a retail or wholesale basis only **shall be required to take and successfully complete a written examination prepared and administered by the department before a license may be issued. The examination shall include, but need not be limited to, all of the following laws and subjects:**

(1) Division 12 (commencing with Section 24000), relating to equipment of vehicles.

(2) Advertising.

(3) Odometers.

(4) Vehicle licensing and registration.

(5) Branch locations.

(6) Offsite sales.

(7) Unlawful dealer activities.

(8) Handling, completion, and disposition of departmental forms.

(b) Prior to the first taking of an examination under subdivision (a), every applicant shall successfully complete a preliminary educational program of not less than four hours. The program shall address, but not be limited to, all of the following topics:

(1) Chapter 2B (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code, relating to motor vehicle sales finance.

(2) Motor vehicle financing.

(3) Truth in lending.

(4) Sales and use taxes.

(5) Division 12 (commencing with Section 24000), relating to equipment of vehicles.

(6) Advertising.

(7) Odometers.

(8) Vehicle licensing and registration.

(9) Branch locations.

(10) Offsite sales.

(11) Unlawful dealer activities.

(12) Air pollution control requirements.

(13) Regulations of the Bureau of Automotive Repair.

(14) Handling, completion, and disposition of departmental forms.

(c) Instruction may be provided by generally accredited educational institutions, private vocational schools, correspondence institutions, and educational programs and seminars offered by professional societies, organizations, trade associations, and other educational and technical programs that meet the requirements of this section or by the department.

(d) This section does not apply to any of the following:

(1) ( )[2] ***An applicant for a*** new vehicle ***dealer's license*** or any employee of that dealer.

(2) A person who holds a valid license as a dealer at the time of application.

(3) A person who held a license as a dealer during the 36 months immediately preceding the date of the receipt of the application by the department.

(4) A person who holds a valid license as an automobile dismantler , ( )[3] ***an employee of that dismantler, or an applicant for an automobile dismantler's license.***

(5) ***An applicant for a motorcycle only dealer's license or any employee of that dealer.***

(6) ***An applicant for a trailer only dealer's license or any employee of that dealer.***

*Added Sec. 3, Ch. 1008, Stats. 1996. Effective January 1, 1997.*
*Amended Sec. 10, Ch. 619, Stats. 1997. Effective January 1, 1998.*
*Amended Sec. 1, Ch. 230, Stats. 1999. Effective January 1, 2000.*
*The 1999 amendment added the italicized material, and at the point(s) indicated, deleted the following:*
*"Commencing January 1, 1998, except"*
*"A new motor vehicle dealer "*
*"or any employee of that dismantler. (4)*

### *License: Examination Fee*

11704.7. Every person who applies to the department to take or retake the examination required under Section 11704.5 shall pay to the department a fee of sixteen dollars ($16).

*Added Sec. 4, Ch. 1008, Stats. 1996. Effective January 1, 1997.*

### *Suspension or Revocation*

11705. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto, or has done any of the following:

(1) Filed an application for the license using a false or fictitious name not registered with the proper authorities, or knowingly made any false statement or knowingly concealed any material fact, in the application for the license.

(2) Made, or knowingly or negligently permitted, any illegal use of the special plates issued to the licensee.

(3) Used a false or fictitious name, knowingly made any false statement, or knowingly concealed any material fact, in any application for the registration of a vehicle, or otherwise committed a fraud in the application.

(4) Failed to deliver to a transferee lawfully entitled thereto a properly endorsed certificate of ownership.

(5) Knowingly purchased, sold, or otherwise acquired or disposed of a stolen motor vehicle.

(6) Failed to provide and maintain a clear physical division between the type of business licensed pursuant to this chapter and any other type of business conducted at the established place of business.

(7) Willfully violated Section 3064 or 3065 or any rule or regulation adopted pursuant thereto.

(8) Violated any provision of Division 3 (commencing with Section 4000) or any rule or regulation adopted pursuant thereto, or subdivision (a) of Section 38200.

(9) Violated any provision of Division 4 (commencing with Section 10500) or any rule or regulation adopted pursuant thereto.

(10) Violated any provision of Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 or any rule or regulation adopted pursuant thereto.

(11) Violated any provision of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or any rule or regulation adopted pursuant thereto.

(12) Violated any provision of Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division of the Civil Code or any rule or regulation adopted pursuant thereto.

(13) Submitted a check, draft, or money order to the department for any obligation or fee due the state which was dishonored or refused payment upon presentation.

(14) Has caused any person to suffer any loss or damage by reason of any fraud or deceit practiced on that person or fraudulent representations made to that person in the course of the licensed activity.

For purposes of this paragraph, "fraud" includes any act or omission which is included within the definition of either "actual fraud" or "constructive fraud" as defined in Sections 1572 and 1573 of the Civil Code, and "deceit" has the same meaning as defined in Section 1710 of the Civil Code. In addition, "fraud" and "deceit" include, but are not limited to, a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made honestly and in good faith; an intentional failure to disclose a material fact; and any act within Section 484 of the Penal Code.

For purposes of this paragraph, "person" also includes a governmental entity.

(15) Failed to meet the terms and conditions of an agreement entered into pursuant to Section 11707.

(16) Violated Section 43151, 43152, or 43153 of, or subdivision (b) of Section 44072.10 of, the Health and Safety Code.

(b) Any of the causes specified in this chapter as a cause for refusal to issue a license to a transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or dealer applicant is cause to suspend or revoke a license issued to a transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or dealer.

(c) Except as provided in Section 11707, every hearing provided for in this section shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

*Amended Ch. 1563, Stats. 1990. Effective January 1, 1991.*
*Amended Ch. 1220, Stats. 1994. Effective September 30, 1994.*

*Suspension or Revocation: Warranty Violation*

11705.4. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto or has willfully violated the terms and conditions of any warranty responsibilities as set forth in Title 1.7 (commencing with Section 1790) of Part 4 of Division 3 of the Civil Code.

(b) Every hearing as provided for in this section shall be pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

*Amended Ch. 873, Stats. 1977. Effective January 1, 1978.*

*Suspension or Revocation: Additional Ground*

11705.5. (a) The department, after notice and hearing, may suspend or revoke the license issued to a manufacturer upon determining that the manufacturer has violated paragraph (2) of subdivision (b) of Section 6262 of the Revenue and Taxation Code.

(b) The hearing provided for in subdivision (a) shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

*Added Ch. 1362, Stats. 1990. Effective September 27, 1990, terms of an urgency clause. Operative October 15, 1990.*

*Temporary Suspension*

11706. The department may, pending a hearing, temporarily suspend the license and special plates issued to a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch,

transporter, or dealer, for a period not to exceed 30 days, if the director finds that such action is required in the public interest. In any such case, a hearing shall be held and a decision thereon issued within 30 days after notice of the temporary suspension.

Every hearing, as provided for in this section, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

*Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Compromise Settlement Agreement*

11707. (a) After the filing of an accusation under this article, the director may enter into a stipulated compromise settlement agreement with the consent of the licensee on terms and conditions mutually agreeable to the director, the respondent licensee, and the accuser without further hearing or appeal. The agreement may include, but is not limited to, a period of probation or monetary penalties, or both. Except as provided in Section 11728, the monetary penalty shall not exceed one thousand dollars ($1,000) for each violation, and it shall be based on the nature of the violation and the effect of the violation on the purposes of this article.

(b) A compromise settlement agreement may be entered before, during, or after the hearing, but is valid only if executed and filed pursuant to subdivision (d) before the proposed decision of the hearing officer, if any, is adopted or the case is decided.

(c) The department shall adopt, by regulation, a schedule of maximum and minimum amounts of monetary penalties, the payment of which may be included as a term or condition of a compromise settlement agreement entered under subdivision (a). Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties in that schedule.

(d) Any compromise settlement agreement entered under this section shall be signed by the director, the respondent licensee, and the accuser, or by their authorized representatives. The director shall file, or cause to be filed, the agreement with the Office of Administrative Hearings, together with the department's notice of withdrawal of the accusation or statement of issues upon which the action was initiated.

(e) If the respondent licensee fails to perform all of the terms and conditions of the compromise settlement agreement, the agreement is void and the department may take any action authorized by law, notwithstanding the agreement, including, but not limited to, refiling the accusation or imposing license sanctions.

*Amended Ch. 90, Stats. 1990. Effective May 9, 1990. Operative July 1, 1990.*

*Refusal to Issue License and Special-Plates Hearings*

11708. (a) Upon refusal of the department to issue a license and special plates to a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer, the applicant shall be entitled to demand, in writing, a hearing before the director or his or her representative within 60 days after notice of refusal.

(b) The hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

*Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Established Place of Business: Posting*

11709. (a) A dealer's established place of business, and other sites or locations as may be operated and maintained by the dealer in conjunction with his or her established place of business, shall have posted, in a place conspicuous to the public in each and every location, the license issued by the department to the dealer and to each salesman employed by the dealer and shall have erected or posted thereon signs or devices providing information relating to the dealer's name and the location and address of the dealer's established place of business to enable any person doing business with the dealer to identify him or her properly. Every such sign erected or posted, on an established place of business, shall have an area of not less than two square feet per side displayed and shall contain lettering of sufficient size to enable the sign to be read from a distance of at least 50 feet. This section shall not apply to a dealer who is a wholesaler involved for profit only in the sale of vehicles between licensed dealers.

(b) Notwithstanding Section 11704 and this section, a dealer may display vehicles at a fair, exposition, or similar exhibit without securing a branch license, if no actual sales are made at those events and the display does not exceed 30 days.

(c) All vehicles displayed pursuant to subdivision (b) or (e) shall be identified by a sign or device providing information relating to the dealer's name and the location and address of the dealer's established place of business.

(d) This section shall not be applicable to a dealer who deals only in off-highway vehicles subject to identification, as defined in Section 38012.

(e) Notwithstanding Section 11704 and this section, a vessel dealer may display a trailer and may sell a trailer in conjunction with the sale of a vessel at a fair, exposition, or similar exhibit without securing a branch license, if the display does not exceed 30 days.

*Amended Ch. 147, Stats. 1989. Effective January 1, 1990.*

*Notice to Public: Inspection of Vehicle*

11709.1. Every dealer who displays or offers one or more used vehicles for sale at retail shall post a notice not less than 8 inches high and 10 inches wide, in a place conspicuous to the public, which states the following:

"The prospective purchaser of a vehicle may, at his or her own expense and with the approval of the dealer, have the vehicle inspected by an independent third party either on or off these premises."

*Added Ch. 1563, Stats. 1990. Effective January 1, 1991.*

*Notice to Public: No Cancellation Period*

11709.2. Every dealer shall conspicuously display a notice, not less than eight inches high and 10 inches wide, in each sales office and sales cubicle of a dealer's established place of business where written terms of specific sale or lease transactions are discussed with prospective purchasers or lessees, and in each room of a dealer's established place of business where sale and lease contracts are regularly executed, which states the following:

"NO COOLING-OFF PERIOD"

California law does not provide for a "cooling-off" or other cancellation period for vehicle lease or purchase contracts. Therefore, you cannot later cancel such a contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign a motor vehicle purchase or lease contract, it may only be canceled with the agreement of the seller or lessor or for legal cause, such as fraud."

*Added Ch. 1092, Stats. 1993. Effective January 1, 1994. Operative July 1, 1994.*
*Amended Ch. 146, Stats. 1994. Effective January 1, 1995.*

*Bond; Service of Process*

11710. (a) Before any dealer's or remanufacturer's license is issued or renewed by the department to any applicant therefor, the applicant shall procure and file with the department a bond executed by an admitted surety insurer, approved as to form by the Attorney General, and conditioned that the applicant shall not practice any fraud or make any fraudulent representation which will cause a monetary loss to a purchaser, seller, financing agency, or governmental agency.

(b) A dealer bond shall be in the amount of ten thousand dollars ($10,000). A dealer holding a dealer's license that was issued before July 1, 1990, that does not expire until 1990 or 1991, which has a bond in the amount of five thousand dollars ($5,000) on file with the department, and whose license and bond remain continuously in full force and effect until the expiration of the license in 1990 or 1991, may continue to conduct business until that expiration date. Before the license is renewed by the department, the dealer shall procure and file a bond in the amount of ten thousand dollars ($10,000). A remanufacturer bond shall be in the amount of twenty-five thousand dollars ($25,000).

(c) Liability under the bond is to remain at full value. If the amount of liability under the bond is decreased or there is outstanding a final court judgment for which the dealer or remanufacturer and sureties are liable, the

dealer's or remanufacturer's license shall be automatically suspended. In order to reinstate the license and special plates, the licensee shall either file an additional bond or restore the bond on file to the original amount, or shall terminate the outstanding judgment for which the dealer or remanufacturer and sureties are liable.

(d) A dealer's or remanufacturer's license, or renewal of the license, shall not be issued to any applicant therefor, unless and until the applicant files with the department a good and sufficient instrument, in writing, in which the applicant appoints the director as the true and lawful agent of the applicant upon whom all process may be served in any action, or actions, which may thereafter be commenced against the applicant, arising out of any claim for damages suffered by any firm, person, association, or corporation, by reason of the violation of the applicant of any of the terms and provisions of this code or any condition of the dealer's or remanufacturer's bond. The applicant shall stipulate and agree in the appointment that any process directed to the applicant, when personal service of process upon the applicant cannot be made in this state after due diligence and, in such a case, is served upon the director or, in the event of the director's absence from the office, upon any employee in charge of the office of the director, shall be of the same legal force and effect as if served upon the applicant personally. The applicant shall further stipulate and agree, in writing, that the agency created by the appointment shall continue for and during the period covered by any license that may be issued and so long thereafter as the applicant may be made to answer in damages for a violation of this code or any condition of the bond. The instrument appointing the director as the agent for the applicant for service of process shall be acknowledged by the applicant before a notary public. In any case where the licensee is served with process by service upon the director, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director in Sacramento. A fee of five dollars ($5) shall also be paid to the director at the time of service of the copy of the summons and complaint. Service on the director shall be a sufficient service on the licensee if a notice of service and a copy of the summons and complaint are immediately sent by registered mail by the plaintiff or the plaintiff's attorney to the licensee. A copy of the summons and complaint shall also be mailed by the plaintiff or the plaintiff's attorney to the surety on the applicant's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt. The director shall keep a record of all process so served upon the director, which record shall show the day and hour of service and shall retain the summons and complaint so served on file. Where the licensee is served with process by service upon the director, the licensee shall have and be allowed 30 days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. However, for purposes of venue, where the licensee is served with process by service upon the director, the service is deemed to have been made upon the licensee in the county in which the licensee has or last had an established place of business.

*Amended Ch. 622, Stats. 1989. Effective January 1, 1990.*

*Return of Cash Deposit*

11710.2. If a deposit is given instead of the bond required by Section 11710 both of the following apply:

(a) The director may order the deposit returned at the expiration of three years from the date an applicant for a dealer's license who has operated a business of selling vehicles under a temporary permit has ceased to do business, or three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(b) If either the director, department, or state is a defendant in any action instituted to recover all or any part of the deposit, or any action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in processing claims against the deposit.

*Amended Ch. 216, Stats. 1990. Effective January 1, 1991.*

*Fraud and Other Violations of Law: Failure to Pay for Vehicles: Priority of Claims*

11711. (a) If any person (1) shall suffer any loss or damage by reason of any fraud practiced on him or fraudulent representation made to him by a licensed dealer or one of such dealer's salesmen acting for the

dealer, in his behalf, or within the scope of the employment of such salesman and such person has possession of a written instrument furnished by the licensee, containing stipulated provisions and guarantees which the person believes have been violated by the licensee, or (2) if any person shall suffer any loss or damage by reason of the violation by such dealer or salesman of any of the provisions of Division 3 (commencing with Section 4000) of this code, or (3) if any person is not paid for a vehicle sold to and purchased by a licensee, then any such person shall have a right of action against such dealer, his salesman, and the surety upon the dealer's bond, in an amount not to exceed the value of the vehicle purchased from or sold to the dealer.

(b) If the state or any political subdivision thereof shall suffer any loss or damage by reason of any fraud practiced on the state or fraudulent representation made to the state by a licensed dealer, or one of such dealer's representatives acting for the dealer, in his behalf, or within the scope of employment of such representatives, or shall suffer any loss or damage by reason of the violation of such dealer or representative of any of the provisions of Division 3 (commencing with Section 4000) of this code, or Part 5 (commencing with Section 10701), Division 2 of the Revenue and Taxation Code, the state or any political subdivision thereof, through the department, shall have a right of action against such dealer, his representative, and the surety upon the dealer's bond in an amount not to exceed the value of the vehicles involved.

(c) The failure of a dealer upon demand to pay the fees and penalties determined to be due as provided in Section 4456 hereof is declared to be a violation of Division 3 (commencing with Section 4000) of this code, and Part 5 (commencing with Section 10701), Division 2 of the Revenue and Taxation Code and to constitute loss or damage to the state in the amounts of such fees and penalties determined to be due and not paid.

(d) The claims of the State under subdivision (b) shall be satisfied first and entitled to preference over all claims under subdivision (a).

(e) The claims of any person under subdivision (a) who is not a licensee shall be satisfied first and entitled to preference over all other claims under subdivision (a).

*Amended Ch. 1106, Stats. 1972. Effective March 7, 1973.*

*Change of Established Place of Business*

11712. (a) The department shall not issue a dealer's license to any applicant therefor who has not an established place of business as defined in this code. Should the dealer change the site or location of his established place of business, he or she shall, immediately upon making that change, so notify the department. Should a dealer for any reason whatsoever, cease to be in possession of an established place of business from and on which he or she conducts the business for which he or she is licensed, he or she shall immediately notify the department and, upon demand by the department, shall deliver to the department the dealer's license, dealer's special plate or plates, and all report of sale books in his or her possession.

(b) Should the dealer change to, or add another franchise for the sale of new vehicles, or cancel or, for any cause whatever, otherwise lose a franchise for the sale of new vehicles, he or she shall immediately so notify the department.

(c) Any person licensed under this article who has closed his or her established place of business may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that place of business or at the mailing address of record if different from the established place of business, unless the person has notified the department in writing of another address where service may be made.

*Amended Ch. 751, Stats. 1988. Effective January 1, 1989.*

*Motorcycle and Light Duty Truck Sales: Required Price Information*

11712.5. It is unlawful and a violation of this code for a dealer issued a license pursuant to this article to sell, offer for sale, or display any new vehicle, as follows:

(a) A new motorcycle unless there is securely attached thereto a statement as required by Section 24014.

(b) A new light duty truck with a manufacturer's gross vehicle weight rating of 8,500 pounds or less unless there is affixed to the light duty truck the label required by Section 24013.5.

*Amended Ch. 418, Stats. 1987. Effective January 1, 1988.*

*Unlawful Acts*

11713. No holder of any license issued under this article shall do any of the following:

(a) Make or disseminate, or cause to be made or disseminated, before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate, or cause to be so disseminated, any statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.

(b) (1) (A) Advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of the dealer or available to the dealer directly from the manufacturer or distributor of the vehicle at the time of the advertisement or offer. However, a dealer who has been issued an autobroker's endorsement to his or her dealer's license may advertise his or her service of arranging or negotiating the purchase of a new motor vehicle from a franchised new motor vehicle dealer and may specify the line-makes and models of those new vehicles. Autobrokering service advertisements may not advertise the price or payment terms of any vehicle and shall disclose that the advertiser is an autobroker or auto buying service, and shall clearly and conspicuously state the following: "All new cars arranged for sale are subject to price and availability from the selling franchised new car dealer."

(B) As to printed advertisements, the disclosure statement required by subparagraph (A) shall be printed in not less than 10-point bold type size and shall be textually segregated from the other portions of the printed advertisement.

(2) Notwithstanding subparagraph (A), classified advertisements for autobrokering services that measure two column inches or less are exempt from the disclosure statement in subparagraph (A) pertaining to price and availability.

(3) Radio advertisements of a duration of less than 11 seconds that do not reference specific line-makes or models of motor vehicles are exempt from the disclosure statement required in subparagraph (A).

(c) Fail, within 48 hours, in writing to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) Advertise or represent a vehicle as a new vehicle if the vehicle is a used vehicle.

(e) Engage in the business for which the licensee is licensed without having in force and effect a bond as required by this article.

(f) Engage in the business for which the dealer is licensed without at all times maintaining an established place of business as required by this code.

(g) Include, as an added cost to the selling price of a vehicle, an amount for licensing or transfer of title of the vehicle, which is not due to the state unless, prior to the sale, that amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of the fees. However, a dealer may collect from the second purchaser of a vehicle a prorated fee based upon the number of months remaining in the registration year for that vehicle, if the vehicle had been previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this code and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the vehicle.

(h) Employ any person as a salesperson who has not been licensed pursuant to Article 2 (commencing with Section 11800), and whose license is not displayed on the premises of the dealer as required by Section 11812, or willfully fail to notify the department by mail within 10 days of the employment or termination of employment of a salesperson.

(i) Deliver, following the sale, a vehicle for operation on California highways, if the vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000). This subdivision does not apply to the sale of a leased vehicle to the lessee if the lessee is in possession of the vehicle immediately prior to the time of the sale and the vehicle is registered in this state.

(j) Use, or permit the use of, the special plates assigned to him or her for any purpose other than as permitted by Section 11715.

(k) Advertise or otherwise represent, or knowingly allow to be advertised or represented on behalf of, or at the place of business of, the license holder that no down payment is required in connection with the sale of a vehicle when a down payment is in fact required and the buyer is advised or induced to finance the down payment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle.

(l) Participate in the sale of a vehicle required to be reported to the Department of Motor Vehicles under Section 5900 or 5901 without making the return and payment of the full sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(m) Permit the use of the dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the purchase or sale of vehicles required to be registered under this code, or permit the use of the dealer's license, supplies, or books to operate a branch location to be used by any other person, whether or not the licensee has any financial or equitable interest or investment in the vehicles purchased or sold by, or the business of, or branch location used by, the other person.

(n) Violate any provision of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

(o) Sell a previously unregistered vehicle without disclosing in writing to the purchaser the date on which any manufacturer's or distributor's warranty commenced.

(p) Accept a purchase deposit relative to the sale of a vehicle, unless the vehicle is present at the premises of the dealer or available to the dealer directly from the manufacturer or distributor of the vehicle at the time the dealer accepts the deposit. Purchase deposits accepted by an autobroker when brokering a retail sale shall be governed by Sections 11736 and 11737.

(q) Consign for sale to another dealer a new vehicle.

(r) Display a vehicle for sale at a location other than an established place of business authorized by the department for that dealer or display a new motor vehicle at the business premises of another dealer registered as an autobroker. This subdivision does not apply to the display of a vehicle pursuant to subdivision (b) of Section 11709 or the demonstration of the qualities of a motor vehicle by way of a test drive.

*Amended Ch. 1253, Stats. 1994. Effective January 1, 1995.*
*Amended Sec. 9.5, Ch. 766, Stats. 1995. Effective January 1, 1996. Supersedes Sec. 5, Ch. 211.*
*Amended Sec. 1, Ch. 517, Stats. 1998. Effective January 1, 1999.*

### *Additional Unlawful Acts: Dealers*

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

(a) Advertise any specific vehicle for sale without identifying the vehicle by either its vehicle identification number or license number.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees, ( )[1] emission testing fees 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 preparation charge. The dealer document preparation charge shall not exceed forty-five dollars ($45).

(c) Exclude from the newspaper display 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 fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer document preparation charge.

For purposes of this subdivision, "newspaper display advertisement" means any advertisement in a newspaper

which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) Represent the dealer document preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to any person at the advertised total price, exclusive of taxes, vehicle registration fees, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer document preparation charge, which charges shall not exceed forty-five dollars ($45) for the document preparation charge and ( )[2] not to exceed fifty dollars ($50) for emission testing 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.

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

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

(A) A mobilehome.

(B) A recreational vehicle as defined in Section 18010 of the Health and Safety Code.

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

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

(E) A manufactured home.

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

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

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

(g) Sell a park trailer, as specified in subdivision (b) of Section 18010 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. The term “free” includes merchandise or services offered for sale at a price less than the seller’s cost of the merchandise or services.

(i) 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.

For purposes of this subdivision, in any 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 (1) 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 (2) be disclosed immediately above, below, or beside the advertised price without any intervening words, pictures, marks, or symbols.

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 the term "rebate" or similar words such as "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 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 meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(l) Advertise a guaranteed trade-in allowance unless the guarantee is provided by the manufacturer or distributor.

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

(n) (1) Use the terms "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) Any 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) Any 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 any 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 any 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) Affix on any new vehicle a supplemental price sticker containing a price that represents the dealer's asking price which 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 which 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, then the supplemental sticker price shall set forth that difference and describe it as "added mark-up."

(r) Advertise any underselling claim, such as "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 any other 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) Advertise any 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.

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 any 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 bold type on the face of any 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.

*Amended Ch. 1576, Stats. 1990. Effective January 1, 1991. Supersedes Ch. 1362, 1563.*
*Amended Ch. 1054, Stats. 1991. Effective January 1, 1992. Supersedes Ch. 935.*
*Amended Ch. 1092, Stats. 1992. Effective January 1, 1993. Supersedes Ch. 1091.*
*Amended Ch. 535, Stats. 1993. Effective January 1, 1994.*
*Amended Ch.1253, Stats. 1994. Effective January 1, 1995.*
*Amended Sec. 2, Ch. 585, Stats. 1995. Effective January 1, 1996. Supersedes Sec. 6, Ch. 211.*
*Amended Sec. 1, Ch. 186, Stats. 1996. Effective January 1, 1997.*
*Amended Sec. 2, Ch. 230, Stats. 1999. Effective January 1, 2000.*
*The 1999 amendment added the italicized material, and at the point(s) indicated, deleted the following:*
*"certificate of compliance or noncompliance fees not exceeding forty-five dollars ($45) pursuant to any statute,"*
*"forty-five dollars ($45) for the certificate of compliance or noncompliance pursuant to any statute"*

### *Additional Unlawful Acts*

11713.2. It shall be unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to coerce or attempt to coerce any dealer in this state:

(a) To order or accept delivery of any motor vehicle, part or accessory thereof, appliance, equipment or any other commodity not required by law which shall not have been voluntarily ordered by the dealer.

(b) To order or accept delivery of any motor vehicle with special features, appliances, accessories or equipment not included in the list price of such motor vehicles as publicly advertised by the manufacturer or distributor.

(c) To order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(d) To participate in an advertising campaign or contest, any promotional campaign, promotional materials, training materials, showroom or other display decorations or materials at the expense of the dealer.

(e) To enter into any agreement with the manufacturer, manufacturer branch, distributor, or distributor branch, or to do any other act prejudicial to the dealer by threatening to cancel a franchise or any contractual agreement existing between the dealer and manufacturer, manufacturer branch, distributor, or distributor branch. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of such franchise or contractual agreement shall not constitute a violation of this article.

*Amended and renumbered Ch. 943, Stats. 1979. Effective January 1, 1980. Supersedes Ch. 373.*

### *Additional Unlawful Acts; Vehicle Manufacturers and Distributors*

11713.3. It is unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to do any of the following:

(a) To refuse or fail to deliver in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle or parts or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, manufacturer branch, distributor, or distributor branch.

(b) To prevent or require, or attempt to prevent or require, by contract or otherwise, any change in the capital structure of a dealership or the means by or through which the dealer finances the operation of the dealership, provided that the dealer at all times meets any reasonable capital standards agreed to by the dealer and the manufacturer or distributor, and also provided that no change in capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

(c) To prevent or require, or attempt to prevent or require, a dealer to change the executive management of a dealership, other than the principal dealership operator or operators if the franchise was granted the dealer in reliance upon the personal qualifications of such person or persons.

(d) (1) Except as provided in subdivision (t), to prevent or require, or attempt to prevent or require, by contract or otherwise, any dealer, or any officer, partner, or stockholder of any dealership, the sale or transfer of any part of the interest of any of them to any other person or persons. No dealer, officer, partner, or stockholder shall, however, have the right to sell, transfer, or assign the franchise, or any right thereunder, without the consent of the manufacturer or distributor except that the consent shall not be unreasonably withheld.

(2) (A) For the transferring franchisee to fail, prior to the sale, transfer, or assignment of a franchisee or the sale, assignment, or transfer of all or substantially all of the assets of the franchised business or a controlling interest in the franchised business to another person, to notify the manufacturer or distributor of the franchisee's decision to sell, transfer, or assign the franchise. The notice shall be in writing and shall include all of the following:

(i) The proposed transferee's name and address.

(ii) A copy of all of the agreements relating to the sale, assignment, or transfer of the franchised business or its assets.

(iii) The proposed transferee's application for approval to become the successor franchisee. The application shall include forms and related information generally utilized by the manufacturer or distributor in reviewing prospective franchisees, if those forms are readily made available to existing franchisees. As soon as practicable after receipt of the proposed transferee's application, the manufacturer or distributor shall notify the franchisee and the proposed transferee of any information needed to make the application complete.

(B) For the manufacturer or distributor, to fail on or before 60 days after the receipt of all of the information required pursuant to subparagraph (A), or as extended by a written agreement between the manufacturer or distributor and the franchisee, to notify the franchisee of the approval or the disapproval of the sale, transfer, or assignment of the franchise. The notice shall be in writing and shall be personally served or sent by certified mail, return receipt requested, or by guaranteed overnight delivery service that provides verification of delivery and shall be directed to the franchisee. Any proposed sale, assignment, or transfer shall be deemed approved, unless disapproved by the franchisor in the manner provided by this subdivision. If the proposed sale, assignment, or transfer is disapproved, the franchisor shall include in the notice of disapproval a statement setting forth the reasons for the disapproval.

(3) In any action in which the manufacturer's or distributor's withholding of consent under this subdivision or subdivision (e) is an issue, whether the withholding of consent was unreasonable is a question of fact requiring consideration of all the existing circumstances.

(e) To prevent, or attempt to prevent, a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld or conditioned upon the release, assignment, novation, waiver, estoppel, or modification of any claim or defense by the dealer.

(f) To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and that other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer.

(g) To require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this article or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the board, if the referral would be binding on the dealer. This subdivision does not, however, prohibit arbitration before an independent arbitrator.

(h) To increase prices of motor vehicles which the dealer had ordered for private retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer is evidence of each such order. In the event of manufacturer price reductions, the amount of the reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by either (1) the addition to a motor vehicle of required or optional equipment pursuant to state or federal law, or (2) revaluation of the United States dollar in the case of foreign-make vehicles, are not subject to this subdivision.

(i) To fail to pay to a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or distributor to the dealer by reason of the fact that a new vehicle of a prior year model is in the dealer's inventory at the time of introduction of new model vehicles.

(j) To deny the widow or heirs designated by a deceased owner of a dealership, the opportunity to participate in the ownership of the dealership or successor dealership under a valid franchise for a reasonable time after the death of the owner.

(k) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line-make to be sold to the state or any political subdivision thereof without making the same offer to all other dealers in the same line-make within the relevant market area.

(l) To modify, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of Article 4 (commencing with Section 3060) of Chapter 6 of Division 2.

(m) To employ a person as a representative who has not been licensed pursuant to Article 3 (commencing with Section 11900) of Chapter 4 of Division 5.

(n) To deny any dealer the right of free association with any other dealer for any lawful purpose.

(o) To compete with a dealer in the same line-make operating under an agreement or franchise from a manufacturer or distributor in the relevant market area. A manufacturer or distributor shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions. A distributor shall not be deemed to be competing when a wholly owned subsidiary corporation of the distributor sells motor vehicles at retail, if, for at least three years prior to January 1, 1973, the subsidiary corporation has been a wholly owned subsidiary of the distributor and engaged in the sale of vehicles at retail.

(p) To unfairly discriminate among its franchisees with respect to warranty reimbursement or authority granted its franchisees to make warranty adjustments with retail customers.

(q) To sell vehicles to persons not licensed under this chapter for resale.

(r) To fail to affix an identification number to any park trailer, as described in subdivision (b) of Section 18010 of the Health and Safety Code, which is manufactured on or after January 1, 1987, and which does not clearly identify the unit as a park trailer to the department. The configuration of the identification number shall be approved by the department.

(s) To dishonor a warranty, rebate, or other incentive offered to the public or a dealer in connection with the retail sale of a new motor vehicle, based solely upon the fact that an autobroker arranged or negotiated the sale. This subdivision shall not prohibit the disallowance of that rebate or incentive if the purchaser or dealer is ineligible to receive the rebate or incentive pursuant to any other term or condition of a rebate or incentive program.

(t) To exercise a right of first refusal or any other right requiring a franchisee or any owner thereof to sell, transfer, or assign to the franchisor, or to any nominee of the franchisor, all or any material part of the franchised business or of the assets thereof unless all of the following requirements are met:

(1) The franchise authorizes the franchisor to exercise a right of first refusal to acquire the franchised business or assets thereof in the event of a proposed sale, transfer or assignment.

(2) The franchisor gives written notice of its exercise of the right of first refusal no later than 45 days after the franchisor receives all of the information required pursuant to subparagraph (A) of paragraph (2) of subdivision (d).

(3) The sale, transfer, or assignment being proposed relates to not less than all or substantially all of the assets of the franchised business or to a controlling interest in the franchised business.

(4) The proposed transferee is neither a family member of an owner of the franchised business, nor a managerial employee of the franchisee owning 15 percent or more of the franchised business, nor a corporation, partnership, or other legal entity owned by the existing owners of the franchised business. For purposes of this paragraph, a "family member" means the spouse of an owner of the franchised business, the child, grandchild, brother, sister, or parent of an owner, or a spouse of one of those family members. Nothing contained in this paragraph limits the rights of the franchisor to disapprove a proposed transferee as provided in subdivision (d).

(5) Upon the franchisor's exercise of the right of first refusal, the consideration paid by the franchisor to the franchisee and owners of the franchised business shall equal or exceed all consideration that each of them were to have received under the terms of, or in connection with, the proposed sale, assignment, or transfer, and the franchisor shall comply with all the terms and conditions of the agreement or agreements to sell, transfer, or assign the franchised business.

(6) The franchisor shall reimburse the proposed transferee for any expenses paid or incurred by the proposed transferee in evaluating, investigating, and negotiating the proposed transfer to the extent those expenses do not exceed the usual, customary, and reasonable fees charged for similar work done in the area in which the franchised business is located. These expenses include, but are not limited to, legal and accounting expenses, and expenses incurred for title reports and environmental or other investigations of any real property on which the franchisee's operations are conducted. The proposed transferee shall provide the franchisor a written itemization of those expenses, and a copy of all nonprivileged reports and studies for which expenses were incurred, if any, within 30 days of the proposed transferee's receipt of a written request from the franchisor for that accounting. The franchisor shall make payment within 30 days of exercising the right of first refusal.

(u) To unfairly discriminate in favor of any dealership owned or controlled, in whole or part, by a manufacturer or distributor or an entity that controls or is controlled by the manufacturer or distributor. Nothing in this subdivision shall be interpreted to prohibit a franchisor from granting a franchise to prospective franchisees or assisting those franchisees during the course of the franchise relationship as part of a program or programs to make franchises available to persons lacking capital, training, business experience, or other qualifications ordinarily required of prospective franchisees.

*Amended Ch. 272, Stats. 1993. Effective August 2, 1993.*
*Amended Ch. 1253, Stats. 1994. Effective January 1, 1995.*
*Amended Sec. 7, Ch. 662, Stats. 1998. Effective January 1, 1999.*

*Refund of Excess Fees by Dealer*

11713.4. If a purchaser of a vehicle pays to the dealer an amount for the licensing or transfer of title of the vehicle, which amount is in excess of the actual fees due for such licensing or transfer, or which amount is in excess of the amount which has been paid, prior to the sale, by the dealer to the state in order to avoid penalties that would have accrued because of late payment of such fees, the dealer shall return such excess amount to the purchaser, whether or not such purchaser requests the return of the excess amount.

*Amended and renumbered Ch. 943, Stats. 1979. Effective January 1, 1980.*

*Unlawful Representation of Vehicle Year Model*

11713.5. (a) It is unlawful and a violation of this code for the holder of any license issued under this article to display for sale, offer for sale, or sell, a motor vehicle, representing the motor vehicle to be of a year model different from the year model designated at the time of manufacture or first assembly as a completed vehicle.

(b) It is unlawful and a violation of this code for the holder of any license issued under this article to directly or indirectly authorize or advise another holder of a license issued under this article to change the year model of a motor vehicle in the inventory of the other holder.

(c) It is unlawful and a violation of this code for the holder of any license issued under this article to display for sale, offer for sale, or sell, a housecar which has been manufactured in two or more stages, unless the licensee informs the buyer that the housecar has been so manufactured and the licensee provides the buyer with a form, approved by the department, which sets forth the date of chassis and engine manufacture and the date and model year of the other stages of the vehicle. The licensee shall retain a copy of the form, which shall be signed by the purchaser prior to entering into any sales contract, indicating that the purchaser has received a copy of the form.

(d) This section does not apply to the displaying or offering for sale, or selling, of any new motortruck or truck tractor weighing over 10,000 pounds.

(e) This section does not apply to a vehicle which has been remanufactured by a licensed remanufacturer. The year model of a remanufactured vehicle will be the year the vehicle was remanufactured.

*Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Additional Unlawful Acts: Dealers: Tire Chains*

11713.6. (a) It is unlawful and a violation of this code for the holder of any dealer's license issued under this article to fail to disclose in writing to the buyer or lessee of a new motor vehicle, that the vehicle, as equipped, may not be operated on a highway signed for the requirement of tire chains if the owner's manual or other material provided by the manufacturer states that the vehicle, as equipped, may not be operated with tire chains.

(b) The disclosure required under subdivision (a) shall meet both of the following requirements:

(1) The disclosure shall be printed in not less than 14-point boldface type on a single sheet of paper that contains no information other than the disclosure.

(2) The disclosure shall include the following language in capital letters: "AS EQUIPPED, THIS VEHICLE MAY NOT BE OPERATED WITH TIRE CHAINS BUT MAY ACCOMMODATE SOME OTHER TYPE OF TIRE TRACTION DEVICE. SEE THE OWNER'S MANUAL FOR DETAILS."

(c) Prior to the sale or lease, the dealer shall present the disclosure statement for the buyer's or lessee's signature and then shall provide the buyer or lessee with a copy of the signed disclosure.

*Added Ch. 6, Stats. 1991. Effective January 1, 1991.*
*Amended Sec. 2, .Ch. 452, Stats. 1995. Effective January 1, 1996.*

*Disclosure: Remanufactured Vehicle*

11713.7. Disclosure to a buyer that a vehicle has been remanufactured is required. Disclosure shall be accomplished by all of the following:

(a) Oral notification to the buyer.

(b) The statement "THIS VEHICLE HAS BEEN REMANUFACTURED AND CONTAINS USED OR RECONDITIONED PARTS" shall appear in a type size at least the same as the bulk of the text on the purchase order or conditional sales contract signed by the buyer.

(c) The statement that the vehicle is remanufactured and contains used or reconditioned parts shall appear in any advertisement pertaining to remanufactured vehicles.

(d) Remanufactured vehicles displayed for retail purposes shall be clearly designated as remanufactured. The disclosure statement required in subdivision (b) shall appear on the vehicle or at the location where the vehicles are displayed.

*Added Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Unlawful Acts: Remanufacturer*

11713.8. It is unlawful and a violation of this code for a remanufacturer licensed under this code to fail to do any of the following:

(a) Report to the department an existing vehicle identification number when a used frame is utilized.

(b) Die stamp the vehicle identification number to the frame of the vehicle when a new vehicle identification number is assigned.

(c) Disclose that a vehicle is remanufactured and contains used or reconditioned parts as required by Section 11713.7.

(d) Remove the trade name of the original manufacturer from the vehicle, unless the remanufacturer and the original manufacturer are same.

(e) Maintain for three years bills of sale or invoices for used parts utilized in a remanufactured vehicle.

(f) Maintain for three years proof that the vehicle was reported dismantled, as required by Section 5500 or 11520, when a used frame is utilized in a remanufactured vehicle.

(g) Disclose, on the vehicle identification number plate or label, that the vehicle is remanufactured and includes used parts.

(h) Disclose to the dealer on a document signed by the dealer that the vehicle is remanufactured and contains used parts.

*Added Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Disclosure: Engine Manufacturer*

11713.9. (a) It is unlawful and a violation of this code for the holder of a dealer's license to knowingly display for sale or offer for sale any new motor vehicle specified in subdivision (b) with an engine manufactured by a manufacturer that is not the same as the vehicle manufacturer, as defined in Section 9980, unless the vehicle is prominently labeled as specified in Section 9981.

(b) This section applies only to new passenger vehicles and to new motortrucks with an unladen weight under 6,000 pounds, except housecars.

*Added Ch. 1264, Stats. 1984. Effective January 1, 1985.*

*Low-Speed Vehicle Dealer Disclosure*

11713.10. It is unlawful and a violation of this code to sell a low-speed vehicle, as defined in Section 385.5, without disclosing to the buyer the vehicle's maximum speed and the potential risks of driving a low-speed vehicle.

*Added Sec. 3, Ch. 140, Stats. 1999. Effective January 1, 2000.*

*Additional Unlawful Acts: Auctions: Dealer Advertising*

11713.11. No holder of a dealer's license shall do any of the following when conducting an auction of vehicles to the public:

(a) ( )[1] ***Advertise*** that a vehicle will be auctioned to the public unless all of the following information is clearly and conspicuously disclosed in the advertisement:

(1) The date or the day of the week of the public auction, or if subdivision (b) applies to the auction, the date of the public auction.

(2) The location of the public auction.

(3) Whether a fee will be charged to attend the auction ***and the amount of that fee.***

(4) The name and dealer number of the auctioning dealer.

***(5) Whether a buyer's fee will be charged to a purchaser, in addition to the accepted auction bid price, and, if the fee is a set amount, the dollar amount of that fee. If the buyer's fee is not a set amount, the advertisement shall state the formula or percentage used to calculate the fee.***

(b) If vehicles seized by a federal, state, or local public agency or authority are being advertised, ( )[2] advertise that a vehicle will be auctioned to the public unless, in addition to the information required by subdivision (a), the following information is clearly and conspicuously disclosed in the advertisement:

(1) A good faith estimate of the number of vehicles to be auctioned at that date.

(2) A good faith estimate of the number of vehicles seized by a federal, state, or local public agency or authority to be auctioned at that date.

(c) ( )[3] ***Fail*** , on the day of auction, to identify each vehicle seized by a federal, state, or local public agency or authority, either in a printed catalog or orally, before bidding begins on the vehicle.

***(d) Include in the total price of an auctioned vehicle any costs to the purchaser at the completion of the sale, except the accepted auction bid price, taxes, vehicle registration fees, any charge for emission testing, not to exceed fifty dollars ($50), plus the actual fees charged to a consumer for a certificate pursuant to Section 44060 of the Health and Safety Code, any dealer document preparation charge not exceeding forty-five dollars ($45), and any buyer's fee.***

***(e) Charge a buyer's fee, unless the dealer conducting the auction delivers to any person permitted to submit bids, and at a time prior to accepting any bids from that person, a disclosure statement required by this subdivision and signed by that person. The disclosure statement, if the buyer's fee is a set amount, shall disclose the amount of the fee, or if the buyer's fee is not a set amount, disclose the formula or percentage used to calculate the fee. The disclosure statement shall be on a separate 8 $^1/_2$ x 11 inch sheet of paper. Except for the information set forth in this subdivision, the disclosure statement shall not contain any other text, except as necessary to identify the dealer conducting the auction sale and to disclose the amount, percentage, or formula used to calculate the buyer's fee, and to provide for the date and the person's acknowledgment of receipt. The heading shall be printed in no smaller than 24-point bold type and the text of the statement shall be printed in no smaller than 12-point type and shall read substantially as follows:***

***BUYER'S FEE REQUIRED***

***A buyer's fee is an amount charged by the auctioning dealer for conducting the auction sale. If your bid price is accepted as the winning bid on any vehicle, you will be charged a buyer's fee in addition to the accepted bid price.***

***The buyer's fee that will be added to your accepted bid price is $ _____.***

***OR***

***The buyer's fee that will be added to your accepted bid price will be calculated as follows (insert percentage or other formula for calculating the buyer's fee):***
***The buyer's fee is part of the purchase price and is subject to sales tax.***

***Date: _____ Signature of Bidder _____***

***(f) Fail to comply with or violate this chapter, Title 2.95 (commencing with Section 1812.600) of Part 4 of Division 3 of the Civil Code, Section 2328 of the Commercial Code, or Section 535 of the Penal Code, or any law administered by the State Board of Equalization, relating to the auctioneering business, including, but not limited to, sales and the transfer of title of goods.***

***(g) For purposes of this section, a "buyer's fee" is any amount that is in addition to the accepted auction bid price, taxes, vehicle registration fees, certificate of compliance or noncompliance fee, or any dealer document preparation charge, which is charged to a purchaser by an auctioning dealer.***

*Added Sec. 3, Ch. 585, Stats. 1995. Effective January 1, 1996.*
*Amended Sec. 2, Ch. 672, Stats. 1999. Effective January 1, 2000.*
*The 1999 amendment added the italicized material, and at the point(s) indicated, deleted the following:*
*"When advertising one or more specific auction events to the public, it is unlawful for a dealer licensed under this article to advertise "*
*"it is unlawful for a dealer licensed under this article to"*
*"It is unlawful for the auctioning dealer to fail"*

*Lemon Law Buyback: Decal Location*

11713.12. (a) The decal required by subdivision (c) of Section 1793.23 of the Civil Code to be affixed by a manufacturer to a motor vehicle, shall be affixed to the left front door frame of the vehicle, or, if the vehicle does not have a left front door frame, it shall be affixed in a location designated by the department. The decal shall specify that title to the motor vehicle has been inscribed with the notation "Lemon Law Buyback" and shall be affixed to the vehicle in a manner prescribed by the department.

(b) No person shall knowingly remove or alter any decal affixed to a vehicle pursuant to subdivision (a), whether or not licensed under this code.

*Added Sec. 6, Ch. 503, Stats. 1995. Effective January 1, 1996.*

*Dealer Sale: Public Auction: Purchaser's Rights and Remedies*

11713.14. (a) Notwithstanding any other provision of law, a person who purchases a vehicle that is sold through a dealer at an auction of vehicles open to the general public shall have the same rights and remedies against the dealer who conducts the auction sale as if that dealer were the owner and seller of the auctioned vehicle. The purchaser's rights and remedies are in addition to any right or remedy he or she may have against an owner of a vehicle sold at a public auto auction.

(b) If any claim or action is filed against a dealer pursuant to subdivision (a) and the vehicle that is the subject of the claim or action was owned by a person other than the dealer at the time of sale by auction, the owner of the vehicle that consigned it to the dealer shall indemnify the dealer for any liability resulting from misrepresentations or other misconduct by the consignor.

(c) A purchaser's rights and remedies under this section may not be waived or modified by an agreement or by a recharacterization of the sales transaction.

*Added Sec. 3, Ch. 672, Stats. 1999. Effective January 1, 2000.*

*Recreational Vehicle Show: Temporary Branch License Requirements*

11713.15.(a) (1) Prior to being issued a temporary branch license for selling new recreational vehicles, as defined in Section 18010 of the Health and Safety Code, at a show, a dealer shall submit to the department a manufacturer's written authorization for the sale specifying the dates of the show, the location of the show, and the makes of those new recreational vehicles being offered for sale.

(2) If nine or fewer dealers are participating in the show, a temporary branch license may only be issued to a dealer under this subdivision if the location of the show is 50 miles or less from that dealer's established place of business or permanent branch location.

Each dealer described in this paragraph shall certify in his or her application for a temporary branch license that the show location is 50 miles or less from his or her established place of business or permanent branch location.

(3) A temporary branch license may be issued to a dealer for purposes of participating in a show if all of the following conditions exist:

(A) The location of the show is 50 miles or more from the dealer's place of business or that dealer's branch locations, or both.

(B) Ten or more dealers apply for temporary branch licenses for purposes of participating in that show.

(C) Not less than 10 days prior to the conduct of the show, the department receives at least 10 applications or temporary branch licenses together at one of the department's field offices.

(b) (1) Any advertising and promotional materials designed to attract the public to attend a show of recreational vehicles where there are nine or fewer dealers participating shall include the business name of each participating dealer and that dealer's established place of business in a type size that is equivalent to the second largest type used in the advertisement or promotional materials. This information shall be placed at the top of any advertisement or promotional materials.

(2) If the recreational vehicles being offered for sale are used, the word "used" shall immediately precede the identification of the make of the vehicle or be immediately adjacent to the depiction of any used vehicles.

(3) In addition, the promoters of the show shall cause a sign to be conspicuously displayed at the major, public entrance leading directly to the show, printed in 50-point type, containing the information required in paragraph (1).

(c) A recreational vehicle dealer participating in a show for which a temporary branch license is required shall provide each buyer, prior to the sale of any vehicle at the show, a written statement disclosing the identity and the established business location of the dealer that has agreed to render service or warranty work with respect to the vehicle being purchased by the buyer, and if there is no agreement with any dealer to render the service or warranty, to state that fact.

(d) Paragraphs (2) and (3) of subdivision (a) and subdivision (b) do not apply to a dealer participating in an annual show sponsored by a national trade association of recreational vehicle manufacturers, the show is located in a county with a population of 6,000,000 or more persons, and at least 25 manufacturers are participating in the show, and, if the dealer is otherwise eligible to participate in the show, the department shall issue a temporary branch license if all the following occur:

(1) A national trade association of recreational vehicle manufacturers submits a letter to the department that certifies its status as a national trade association of recreational vehicle manufacturers and specifies the dates and location of the show.

(2) Upon receipt of the letter from a national trade association described in paragraph (1) notifying the department of the dates and location of the show, the department provides written acknowledgment to the national trade association submitting the letter.

(3) Each dealer participating in the show attaches a copy of the department letter described in paragraph (2) to the application for a temporary branch license submitted to the department.

*Added Sec. 1, Ch. 923, Stats. 1995. Effective January 1, 1996.*
*Amended Sec. 1, Ch. 339, Stats. 1997. Effective August 21, 1997.*

*Issuance of License, Special Plates, and Forms: Prohibited Sales*

11714. (a) The department, upon granting a license, shall issue to the applicant a license containing the applicant's name and address and the general distinguishing number assigned to the applicant.

(b) A dealer shall not sell any vehicle at retail at a location that is not posted pursuant to Section 11709.

(c) A dealer who is authorized by the department to sell motor vehicles only at wholesale shall not sell any vehicle at retail and shall report every sale to the department on the wholesale report of sale form prescribed by the department.

(d) When the department has issued a license pursuant to subdivision (a), the licensee may apply for and the department shall issue special plates which shall have displayed thereon the general distinguishing number assigned to the applicant. Each plate so issued shall also contain a number or symbol identifying the plate from every other plate bearing a like general distinguishing number.

(e) The department shall also furnish books and forms as it may determine necessary. Such books and forms are and shall remain the property of the department and may be taken up at any time for inspection.

*Amended Ch. 444, Stats. 1987. Effective January 1, 1988.*

*Operation With Special Plates: Exceptions*

11715. (a) A manufacturer, remanufacturer, distributor, or dealer owning or lawfully possessing any vehicle of a type otherwise required to be registered under this code may operate or move the vehicle upon the highways without registering each such vehicle upon condition that any such vehicle display thereon special plates issued to the owner as provided in this chapter, in addition to other license plates or permits already assigned and attached to the vehicle in the manner prescribed in Sections 5200 to 5203, inclusive. The vehicles may also be moved or operated for the purpose of towing or transporting by any lawful method other vehicles.

(b) A transporter may operate or move any owned or lawfully possessed vehicle of like type by any lawful method upon the highways solely for the purpose of delivery, upon condition that there be displayed upon each vehicle in contact with the highway special license plates issued to the transporter as provided in this chapter, in addition to any license plates or permits already assigned and attached to the vehicle in the manner prescribed in Sections 5200 to 5203, inclusive. The vehicles may be used for the purpose of towing or transporting by any lawful method other vehicles when the towing or transporting vehicle is being delivered for sale or to the owner thereof.

(c) This section does not apply to any manufacturer, remanufacturer, transporter, distributor, or dealer operating or moving a vehicle as provided in Section 11716.

(d) This section does not apply to work or service vehicles owned by a manufacturer, remanufacturer, transporter, distributor, or dealer. This section does not apply to vehicles owned and leased by dealers, except those vehicles rented or leased to vehicle salesmen in the course of their employment for purposes of display or demonstration, nor to any unregistered vehicles used to transport more than one load of other vehicles for the purpose of sale.

(e) This section does not apply to vehicles currently registered in this state which are owned and operated by a licensed dealer when the notice of transfer has been forwarded to the department by the former owner of record pursuant to Section 5900 and when a copy of the notice is displayed as follows:

(1) For a motorcycle or motor-driven cycle, the notice is displayed in a conspicuous manner upon the vehicle.

(2) For a vehicle other than a motorcycle or motor-driven cycle, the notice is displayed in the lower right-hand corner of the windshield of the vehicle, as specified in paragraph (3) of subdivision (b) of Section 26708.

(f) Every owner, upon receipt of a registration card issued for special plates, shall maintain the same or a facsimile copy thereof with the vehicle bearing the special plates.

*Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Operation Without Registration: Permit*

11716. A manufacturer, remanufacturer, transporter, distributor, or dealer, in the course of business, may operate or move any vehicle of a type otherwise required to be registered under this code without registering the vehicle, and without license or special plates attached thereto, from a vessel, railroad depot, or warehouse over the highways to a warehouse or salesroom upon first having obtained a written permit from the department authorizing that operation.

*Amended Ch. 1563, Stats. 1990. Effective January 1, 1991.*

*Expiration and Renewal of Special Plates and License*

11717. (a) Every occupational license and special plate issued under this article shall be valid for a period of one year from midnight of the last day of the month of issuance. Except as provided in subdivision (c), renewal of the occupational license and special plates for the ensuing year may be obtained by the person to whom the occupational license and special plates were issued upon application to the department and payment of the fee provided in this code.

(b) Every application for the renewal of an occupational license and special plates which expire pursuant to this section shall be made by the person to whom issued not more than 90 days prior to the expiration date, and shall be made by presenting the completed application form provided by the department and by payment of the full annual renewal fee for the occupational license and special plates.

(c) If the application for renewal of the occupational license and special plates is not made by midnight of the expiration date, the application may be made within 30 days following expiration of the license by paying the annual renewal fee and a penalty fee equal to the amount of the original application fee for each occupational license held. A penalty as specified in Sections 9553 and 9554 shall also be added to each special plate renewed during the 30-day period following expiration of the special plates.

(d) In no event may the licensee renew the occupational license or special plates after the expiration of the 30-day period authorized in subdivision (c).

*Amended Ch. 499, Stats. 1984. Effective January 1, 1985.*

*Issuance of Probationary License*

11718. Except where the provisions of this code require the refusal to issue a license, the department may issue a probationary license subject to conditions to be observed by the licensee in the exercise of the privilege granted. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license but shall be such as may, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein.

*Amended Ch. 1214, Stats. 1971. Operative May 3, 1972.*

*Temporary Permit*

11719. Pending the satisfaction of the department that the applicant has met the requirements under this article, it may issue a temporary permit to any person applying for a manufacturer's, manufacturer's branch, remanufacturer's, remanufacturer's branch, distributor's, distributor's branch, transporter's, or dealer's license and special plates. The temporary permit shall permit the operation by the manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer for a period not to exceed 120 days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant to the license and special plates. The department may cancel the temporary permit when it has determined, or has reasonable cause to believe, that the application is incorrect or incomplete or the temporary permit was issued in error. The temporary permit is invalid when canceled or when the applicant's license has been issued or refused.

*Amended Ch. 1286, Stats. 1983. Effective January 1, 1984.*

*Certificate of Convenience*

11720. The department may issue a certificate of convenience to the executor, executrix, administrator or administratrix of the estate of a deceased holder of validly outstanding special plates and license issued under this article, or if no executor, executrix, administrator or administratrix has been appointed, and until a certified copy of an order making such appointment is filed with the department, to the surviving spouse or other heir otherwise entitled to conduct the business of the deceased, permitting such person to exercise the privileges granted by such special plates and license for a period of one year from and after the date of death and necessary one-year renewals thereafter, pending, but not later than, disposal of the business and qualification of the vendee of the business or such surviving spouse, heir or other persons for such special plates and license under the provisions of this article. The department may restrict or condition the license and attach to the exercise of the privileges thereunder such terms and conditions as in its judgment the protection of the public requires.

*Amended Ch. 1171, Stats. 1976. Effective January 1, 1977.*

*Automatic Cancellation*

11721. The special plates and licenses provided for in this article shall be automatically canceled upon the happening of any of the following:

(a) The abandonment of the established place of business of the dealer or the change thereof without notice to the department as provided in Section 11712.

(b) The failure of the licensee to maintain an adequate bond or to procure and file another bond as provided in Section 11710 prior to the effective date of the termination by the surety of any existing bond.

(c) The voluntary or involuntary surrender for any cause by the licensee of the special plates and license, except that the surrender of the special plates and license, the cessation of business by the licensee, or the suspension or revocation of the corporate status of the licensee, does not preclude the filing of an accusation for revocation or suspension of the surrendered license as provided in Section 11705, does not affect the department's decision to suspend or revoke the license. The department's determination to suspend or revoke the license may be considered in issuing or refusing to issue any subsequent license authorized by this division to that licensee or to a business representative of that prior licensee.

(d) Notification to the department that the person designated as licensee has changed, except that the special plates issued to the original licensee may be transferred and the newly designated licensee as transferee shall succeed to the privileges evidenced by the plates until their expiration.

(e) The suspension or revocation of the corporate status of the licensee.

(f) The suspension or revocation of the seller's permit of the licensee by the State Board of Equalization.

*Amended Ch. 1563, Stats. 1990. Effective January 1, 1991.*

*Financing Agency*

11722. The bond provided for in Section 11710 shall not be conditioned to protect the monetary interest of a financing agency which has loaned money to a licensee or assignee thereof; provided, however, that as to any conditional sales contract as defined in Section 2981 of the Civil Code, acquired by way of purchase or pledge, a financing agency shall be entitled to protection under said bond if such agency is defrauded by a licensee.

*Added Ch. 35, Stats. 1960. Effective June 25, 1960.*

*License Fees: Exception*

11723. The board may require that fees shall be paid to the department for the issuance or renewal of a license to do business as a new motor vehicle dealer, dealer branch, manufacturer, manufacturer branch, distributor, distributor branch, or representative. The fees shall be to reimburse the department for costs incurred in licensing those dealers, manufacturers, distributors, branches, and representatives and for related administrative costs incurred on behalf of the board. The board may also require that an additional fee be paid to the department when the licensee has failed to pay the fee authorized by Section 3016 prior to the expiration of its occupational license and special plates and the licensee utilizes the 30-day late renewal period authorized by subdivision (c) of Section 11717.

This section shall not apply to dealers, manufacturers, distributors, or representatives of vehicles not subject to registration under this code, except dealers, manufacturers, manufacturer branches, distributors, distributor branches, or representatives of off-highway motorcycles, as defined in Section 436.

*Amended Ch. 1201, Stats. 1985. Effective January 1, 1986.*

*Removal of Motor Vehicle to Foreign Jurisdiction for Registration or Sale*

11725. (a) No person shall transport or drive any motor vehicle from this state outside of the United States with the intent to register or sell such vehicle in a foreign jurisdiction, without first removing the license plates and delivering them to the department. Such person may obtain a permit from the department authorizing the operation of the unlicensed motor vehicle on the public highways of this state in order to reach such foreign jurisdiction. Failure to deliver the license plates as required by this section shall be a misdemeanor.

(b) No holder of any license, or any temporary permit for such license issued under this division, shall deliver any

vehicle following sale without first removing all license plates from such vehicle when it is known by the licensee that the vehicle is to be exported to a foreign jurisdiction outside of the United States.

*Amended Ch. 934, Stats. 1976. Effective January 1, 1977.*

*Recovery of Damages; Injunctive Relief*

11726. Any licensee suffering pecuniary loss because of any willful failure by any other licensee to comply with any provision of Article 1 (commencing with Section 11700) or 3 (commencing with Section 11900) of Chapter 4 of Division 5 or Article 3 (commencing with Section 3052) of Chapter 6 of Division 2 or with any regulation adopted by the department or any rule adopted or decision rendered by the board under authority vested in them may recover damages and reasonable attorney fees therefor in any court of competent jurisdiction. Any such licensee may also have appropriate injunctive relief in any such court.

*Added Ch. 996, Stats. 1973. Operative July 1, 1974.*

*Revocation or Suspension of License*

11727. The revocation or suspension of a license of a manufacturer, manufacturer branch, distributor, distributor branch, or representative may be limited to one or more municipalities or counties or any other defined area, or may be revoked or suspended in a defined area only as to certain aspects of its business, or as to a specified dealer or dealers.

*Added Ch. 996, Stats. 1973. Operative July 1, 1974.*

*Compromise Settlement Agreement: Monetary Penalties*

11728. As part of a compromise settlement agreement entered into pursuant to Section 11707 or 11808.5, the department may assess a monetary penalty of not more than two thousand five hundred dollars ($2,500) per violation and impose a license suspension of not more than 30 days for any dealer who violates subdivision (r) of Section 11713. The extent of the penalties shall be based on the nature of the violation and effect of the violation on the purposes of this article. Except for the penalty limits provided for in Sections 11707 and 11808.5, all the provisions governing compromise settlement agreements for dealers, salespersons, and wholesalers apply to this section, and Section 11415.60 of the Government Code does not apply.

*Added Ch. 90, Stats. 1990. Effective May 1, 1990. Operative July 1, 1990.*
*Amended Ch. 1563, Stats. 1990. Effective January 1, 1991.*
*Amended Ch. 928, Stats. 1991. Effective October 14, 1991.*
*Amended Sec. 90, Ch. 938, Stats. 1995. Effective January 1, 1996. Operative July 1, 1997.*

*Consignment Agreement Required*

11729. ( ) (a) Except as provided in subdivision (b), any dealer engaging in a consignment with an owner not licensed as a dealer, manufacturer, manufacturer branch, distributor, or a distributor branch licensed under this code, and the consignment is not otherwise prohibited by this code, shall execute a consignment agreement as prescribed by Section 11730. The failure of a dealer, when required under this section, to complete and comply with the terms of the prescribed consignment agreement for any vehicle which the dealer agrees to accept on consignment, or to pay the agreed amount to the consignor or his or her designee within 20 days after the date of sale of the vehicle, is cause for suspending or revoking the license of the dealer under paragraph (10) of subdivision (a) of Section 11705.

(b) (1) A dealer conducting retail auction sales on behalf of a fleet owner shall execute a consignment agreement applicable to all vehicles consigned for sale during the term of the agreement which contains, at a minimum, substantially all of the terms, phrases, conditions, and disclosures required by Section 11730, except the following are not required:

(A) The description of a specific vehicle by year, make, identification number, license, state, or mileage.

(B) The information contained in paragraph (4) of subdivision (b) of Section 11730.

(2) If mutually agreeable, in lieu of the requirements of paragraph (7) of subdivision (b) of Section 11730, the consignor may provide the documents necessary to transfer the ownership of the vehicle to the consignee prior to the auction being held.

(3) For purposes of this subdivision, "fleet owner" is either of the following:

(A) A person who is the registered or legal owner of 25 or more vehicles registered in this state and is the owner, as recorded in the department's records, of the vehicles consigned for sale to the dealer.

(B) A bankruptcy trustee who owns or has legal control of the vehicles consigned for sale to the dealer, government agency, or financial institution.

*Added Ch. 735, Stats. 1990. Effective January 1, 1991.*
*Amended Ch. 815, Stats. 1991. Effective January 1, 1992.*
*Amended Sec. 4, Ch. 672, Stats. 1999. Effective January 1, 2000.*
*The 1999 amendment added the italicized material, and at the point(s) indicated, deleted the following "Any"*

*Consignment Agreement: Requirements*

11730. The consignment agreement required by Section 11729 shall contain all the following terms, phrases, conditions, and disclosures:

(a) The date the agreement is executed.

(b) All of the following statements:

(1) "I (We), the undersigned consigner(s), hereby consign and deliver possession of my(our) vehicle, which is a (Year)_____(Make)_____ ID#)_____ (License)_____(State)_____(Mileage)_____, to (Consignee)_____ (Dealer#)_____ for the sole purpose of selling the vehicle and paying, to the consignor or his or her designee from the proceeds of the sale of the vehicle, the amount agreed upon under terms of this agreement. This agreement is effective and valid only for a period of _____ days from this date."

(2) "At the termination of this agreement, the consignee shall return the vehicle to the consignor, or, at the option of both the consignor and consignee, enter into a new agreement."

(3) "If the vehicle is sold by the consignee during the term of this agreement, the money due the consignor shall be disbursed within 20 days after the date of sale in accordance with the terms of this agreement. As used in this agreement, a "sale" occurs when the consignee either (A) receives the purchase price or its equivalent or executes a conditional sales contract for the vehicle, or (B) when the purchaser takes delivery of the vehicle, whichever occurs first."

(4) "The following information shall be completed prior to the signing of this agreement:

Current market value: $_____Source: _____.

Outstanding liens: $_____ Lienholder:_____.

(Any difference between the outstanding amount shown and the actual payoff to the lienholder will be credited to the consignor.)

Repairs to be made: $_____ Work Order _____.

Moneys to the consignor: _____percent of sale price, flat fee of $_____or the following specific formula:_____."

(5) "Within 20 days after sale, the consignee shall make an accounting to the consignor of all of the following: date of sale, repairs authorized by consignor (supported by work records), exact amount of any liens payable to lienholders, evidence of payment of any liens, and the total sales price."

(6) "The consigned vehicle is delivered to the consignee in trust for the exact terms set forth in this agreement. The consignee agrees to receive this vehicle in trust and not to permit its use for any other purpose other than contained in this agreement without the express written consent of the consignor."

(7) "Upon payment of the moneys due the consignor, the consignor agrees to furnish the consignee those documents necessary to transfer the ownership of the vehicle to the purchaser.

Signatures: _____
Consignor Date:
_____
Address:
_____
Consignor Date:
_____ ”
Address:

(8) “NOTICE TO CONSIGNOR: Failure of the consignee to comply with the terms of this agreement may be a violation of statute which could result in criminal or administrative sanctions, or both. If you feel the consignee has not complied with the terms of this agreement, please contact the Department of Motor Vehicles, Division of Investigations and Occupational Licensing, Bureau of Investigations, via the local Department of Motor Vehicles office.”

*Added Ch. 735, Stats. 1990. Effective January 1, 1991.*
*Amended Ch. 815, Stats. 1991. Effective January 1, 1992.*

*Autobroker's Endorsement to Dealer's License*

11735. (a) No dealer shall engage in brokering a retail sales transaction without first paying the fee required by subdivision (d) of Section 9262 and obtaining from the department an autobroker's endorsement to the dealer's license. An autobroker's endorsement shall be automatically cancelled upon the cancellation, suspension, revocation, surrender, or expiration of a dealer's license.

(b) Upon the issuance of an autobroker's endorsement to a dealer's license, the department shall furnish the dealer with an autobroker's log. The autobroker's log shall remain the property of the department and may be taken up at any time for inspection.

(c) The autobroker's log shall contain spaces sufficient for the dealer to record the following information with respect to each retail sale brokered by that dealer:

(1) Vehicle identification number of brokered vehicle.

(2) Date of brokering agreement.

(3) Selling dealer's name, address, and dealer number.

(4) Name of consumer.

(5) Brokering dealer's name and dealer number.

(d) Nothing in this code prohibits a dealer who has been issued an autobroker's endorsement to his or her dealer's license from delivering, with the selling dealer's written approval, motor vehicles that have been sold pursuant to a duly executed motor vehicle purchase agreement or obtaining a consumer's signature on a selling dealer's motor vehicle purchase agreement that has already been executed by the selling dealer.

(e) When brokering a retail sale as an agent of the consumer, selling dealer, or both, the brokering dealer owes a fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with its principal or principals.

(f) For purposes of this section and Sections 11736, 11737, and 11738, “consumer” means any person who retains a dealer to perform brokering services in connection with a retail sale.

*Added Ch. 1253, Stats. 1994. Effective January 1, 1995.*
*Amended Sec. 7, Ch. 211, Stats. 1995. Effective January 1, 1996.*

*Brokering: Unlawful Acts*

11736. It is unlawful for any dealer licensed under this article to do any of the following when brokering a retail sale:

(a) Fail to execute a written brokering agreement, as described in Section 11738, and provide a completed copy to both of the following:

(1) Any consumer entering into the brokering agreement. The completed copy shall be provided prior to the consumer's signing of an agreement for the purchase of the vehicle described in the brokering agreement or, prior to accepting one hundred dollars ($100) or more from that consumer, whichever occurs first.

(2) The selling dealer. The completed copy shall be provided prior to the selling dealer's entering into a purchase agreement with the consumer.

(b) Accept a purchase deposit from any consumer that exceeds 2.5 percent of the selling price of the vehicle described in the brokering agreement.

(c) Fail to refund any purchase money, including purchase deposits, upon demand by a consumer at any time prior to the consumer's signing of a vehicle purchase agreement with a selling dealer and taking delivery of the vehicle described in the brokering agreement.

(d) Fail to cancel a brokering agreement and refund, upon demand, any money paid by a consumer, including any brokerage fee, under any of the following circumstances:

(1) When the final price of the brokered vehicle exceeds the purchase price listed in the brokering agreement.

(2) When the vehicle delivered is not as described in the brokering agreement.

(3) When the brokering agreement expires prior to the customer being presented with a purchase agreement from a selling dealer arranged through the brokering dealer that contains a purchase price at or below the price listed in the brokering agreement.

(e) Act as a seller and provide brokering services, both in the same transaction.

(f) Fail to disclose to the consumer and selling dealer, as soon as practicable, whether the autobroker receives or does not receive a fee or other compensation, regardless of the form or time of payment, from the selling dealer and the dollar amount of any fee that the consumer is obligated to pay to the autobroker. This arrangement shall be confirmed in a brokering agreement.

(g) Fail to record in the dealer's autobroker log, for each brokered sale, all of the information specified in subdivision (c) of Section 11735.

(h) Fail to maintain for a minimum of three years a copy of the executed brokering agreement and other notices and documents related to each brokered transaction.

(i) Fail to advise the consumer, prior to accepting any money, that a full refund will be given if the motor vehicle ordered through the autobroker is not obtained for the consumer or if the service orally contracted for is not provided.

*Added Ch.1253, Stats. 1994. Effective January 1, 1995.*
*Amended Sec. 8, Ch. 211, Stats. 1995. Effective January 1, 1996.*

*Brokering: Purchase Deposits: Trust Account*

11737. (a) A dealer who brokers a motor vehicle sale shall deposit directly into a trust account any purchase money, including purchase deposits, it receives from a consumer or a consumer's lender. This subdivision does not require a separate trust account for each brokered transaction.

(b) The brokering dealer shall not in any manner encumber the corpus of the trust account except as follows:

(1) In partial or full payment to a selling dealer for a vehicle purchased by the brokering dealer's consumer.

(2) To make refunds.

(c) Subdivision (b) shall not prevent payment of the interest earned on the trust account to the brokering dealer.

(d) The brokering dealer shall serve as trustee of the trust account required by this section. If the brokering dealer is a partnership or a corporation, the managing partner of the partnership or the chief executive officer of the corporation shall be the trustee. The trustee may designate in writing that an officer or employee may manage the trust account if that officer or employee is under the trustee's supervision and control, and the original of that writing is on file with the department.

(e) All trust accounts required by this section shall be maintained at a branch of a bank, savings and loan association, or credit union regulated by the state or the government of the United States.

(f) The brokering dealer has a fiduciary responsibility with respect to all purchase money received from a consumer or consumers lender relative to a brokered sale transaction.

(g) The following are deemed to be held in trust for consumers who have paid purchase money to a brokering dealer:

(1) All sums received by the brokering dealer whether or not required to be deposited in an actual trust account and regardless of whether any of these sums were required to be deposited or actually were deposited in a trust account.

(2) All property with which any of the sums described in paragraph (1) has been commingled if any of these sums cannot be identified because of the commingling.

(h) Upon any judicially ordered distribution of any money or property required to be held in trust and after all expenses of distribution approved by the court have been paid, every consumer of a brokering dealer has a claim on the trust for purchase money payments made to the brokering dealer. Unless a consumer can identify his or her funds in the trust within the time established by the court, each consumer shall receive a proportional share based on the amount paid.

*Added Ch. 1253, Stats. 1994. Effective January 1, 1995.*

*Brokering Agreement: Form and Contents*

11738. The brokering agreement required by Section 11736 shall be printed in no smaller than 10-point type and shall contain not less than the following terms, conditions, requirements, and disclosures:

(a) The name, address, license number, and telephone number of the autobroker.

(b) A complete description, including line-make, model, year model, and color, of the vehicle and the desired options.

(c) The following statement:

"The following information shall be completed prior to the signing of this brokering agreement: Dollar Purchase Price of Vehicle: _____.

Date this agreement will expire if a purchase agreement from a selling dealer is not presented for your signature: _____.

Fee that you will be obligated to pay us, if any: _____."

(d) One of the following notices, as appropriate, printed in at least 10-point bold type and placed immediately below the statement required by subdivision (c):

(1) "We do not receive a fee from the selling dealer."

(2) "We receive a fee from the selling dealer."

(e) The following notice on the face of the brokering agreement with a heading in at least 14-point bold type and the text in at least 10-point bold type, circumscribed by a line, that reads as follows:

NOTICE

This is an agreement to provide services; it is not an agreement for the purchase of a vehicle. California law gives you the following rights and protection:

Once you have signed this agreement, you have the right to cancel it and receive a full refund of any money paid, including any brokerage fee you may have paid, under any of the following circumstances:

(1) The final price of the vehicle exceeds the purchase price listed above.

(2) The vehicle is not as described above upon delivery.

(3) This agreement expires prior to your being presented with a selling dealer's purchase agreement.

If you have paid a purchase deposit, you have the right to receive a refund of that deposit at any time prior to your signing a vehicle purchase agreement with a selling dealer. Purchase deposits are limited by law to no more than 2.5 percent of the purchase price of a vehicle and must be deposited by an autobroker or auto buying service in a federally insured trust account. If you are unable to resolve a dispute with your autobroker or auto buying service, please contact the Department of Motor Vehicles, Division of Investigations and Occupational Licensing, via your local office of the Department of Motor Vehicles.

(f) The date the agreement is executed.

(g) The signature of the autobroker and consumer.

*Added Ch. 1253, Stats. 1994. Effective January 1, 1995.*

*Brokered Retail New Motor Vehicle Sale: Dealer and Manufacturer Responsibilities*

11739. For purposes of title registration, warranties, rebates, and incentives, in a brokered retail new motor vehicle sale, the selling, franchised new car dealer, and not the autobroker, is responsible to apply for title in the name of the purchaser, to secure vehicle registration and the license plates for the purchaser, to secure the manufacturer's warranty in the name of the purchaser, and to make all applications for any manufacturer's rebates and incentives due the purchaser. If there is a manufacturer's recall, the consumer shall be notified directly by the manufacturer.

*Added Ch. 1253, Stats. 1994. Effective January 1, 1995.*

**California Code of Regulations.** Title 13, Chapter 1.

**Government Code.** Section 6157 (a) - (d).

6157. (a) The state, and each city, whether general law or chartered, county, and district, each subdivision, department, board, commission, body, or agency of the foregoing, shall accept personal checks drawn in its favor or in favor of a designated official thereof, in payment for any license, permit, or fee, or in payment of any obligation owing to the public agency or trust deposit, if the person issuing the check furnishes to the person authorized to receive payment satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

(b) If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check, not to exceed the actual costs incurred by the public agency, may be imposed to recover the public agency's processing and collection costs. This charge may be added to, and become part of, any underlying obligation other than an obligation which constitutes a lien on real property, and a different method of payment for that payment and future payments by this person may be prescribed.

(c) The acceptance of a personal check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

(d) The provisions in subdivision (b) prohibiting a returned check charge being added to, and becoming a part of, an obligation which constitutes a lien on real property do not apply to obligations under the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50) of Chapter 6 of Division 4 of the Military and Veterans Code).

GRAY DAVIS, *Governor*
State of California

MARIA CONTRERAS-SWEET, *Secretary*
Business, Transportation and Housing Agency

STEVEN GOURLEY, *Director*
Department of Motor Vehicles