New Requirements for Buy-Here-Pay-Here Dealers

New Information
Effective immediately, new legislation revises the Collateral Recovery Act by prohibiting buy-here-pay-here (BHPH) dealers from using unlicensed repossession agencies.

BHPH Dealer Defined
A BHPH dealer is a dealer as defined by California Vehicle Code (CVC) §§241 and 285 that does the following:

- Enters into conditional sales contracts (California Civil Code (CCC) §2981(a)) or lease contracts (CCC §2985.7(d)) and is subject to specified provisions of CCC, Title 14, Division 3, Part 4, governing vehicle sales, financing, and leasing, except that a "conditional sales contract: does not include a contract for the sale of a motor vehicle if all amounts owed under the contract are paid in full within 30 days."

- Assigns less than 90 percent of all unrescinded conditional sales and lease contracts to unaffiliated third-party finance or leasing sources within 45 days of the sale.

BHPH dealer exclusions:
- A lessor who primarily leases vehicles two model years old or newer.
- A dealer that certifies 100 percent of its vehicles pursuant to CVC §11713.18 by maintaining an on-site service and repair facility licensed by the Bureau of Automotive Repair and employing a minimum of five master automobile technicians certified by the National Institute for Automotive Service Excellence.

BHPH Dealer Requirements
The new legislation requires BHPH dealers (as defined by CVC §§241 and 285) to adhere to certain requirements on every vehicle sold or leased, as follows:

- Requires a licensed repossession agency (LRA) to only transact business with another person or entity as an independent contractor, and prohibits an LRA from allowing anyone other than a qualified certificate holder, its owner, or its officer, to manage its operations or transact business.

- Makes it a misdemeanor, punishable by a fine of up to $5,000, for a BHPH dealer to knowingly engage a nonexempt unlicensed person to repossess collateral on its behalf.

- Authorizes the Department of Motor Vehicles (DMV) to suspend or revoke the license issued to a BHPH dealer if it violates the act.

- Clarifies that a repossession shall not appraise or determine the value of any collateral, whether damaged or not.

- Authorizes a repossession to complete a condition report for collateral that makes a general assessment of the collateral but does not include all damage or missing parts, as specified.
BHPH Dealer Requirements, continued

- Authorizes the Bureau of Security and Investigative Services (BSIS) to assess a $25 administrative fine against a repossessor for knowingly submitting a false report, not just reports submitted to an employer.

- Requires a repossessor to contact law enforcement within one hour after taking possession of a vehicle, and continue to attempt notification until the repossessor provides notification.

- Prohibits a person, other than a peace officer acting in an official capacity, from interfering with the transport of a vehicle to a storage facility, auction, or dealer by an individual employed by an LRA or repossessor once repossession is complete, as specified, and makes a violation of that provision an infraction.

- Prohibits a tow yard, impounding agency, government agency, or person acting on behalf of these entities from refusing to release a vehicle or collateral to anyone legally entitled to that vehicle or collateral, except a vehicle being held for evidence by law enforcement or a prosecuting attorney.

**NOTE:** To verify a repossessor is licensed visit the BSIS website at [www.bsis.ca.gov](http://www.bsis.ca.gov).

Background

This is an overview of new BHPH dealer requirements. Refer to [www.leginfo.ca.gov](http://www.leginfo.ca.gov) for the exact bill language.

Distribution

Notification that this memo is available online at [www.dmv.ca.gov/pubs/olin/olin.htm](http://www.dmv.ca.gov/pubs/olin/olin.htm) was made via California DMV’s Automated E-mail Alert System in January 2015 to the following:

- Dealers

References

- *California Business and Professions Code* §§7500.2, 7507.115, 7507.125, 7508.1, 7508.4, and 7508.5
- *California Civil Code* §§2981(a) and 2985.7(d) and Title 14, Division 3, Part 4
- *California Government Code* § 41612

Contact

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