

January 21, 2004

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative entitled "Car Buyers' Bill of Rights" (File No. SA2003RF0066).

Major Provisions of the Initiative

This measure amends the Civil Code related to the sale of vehicles in the state. The major provisions of the measure are discussed in detail below.

Cooling Off Period for Used Vehicle Purchases. The measure allows a "cooling off period" whereby the buyers of used vehicles could return the vehicle to the car dealer within three days of purchase. A buyer would receive a refund of the sale price, adjusted for any miles driven. Cancellation of the sale would be required in writing and the vehicle must be returned within 24 hours of the cancellation notification. This provision does not apply to the sale of used vehicles by an individual or the sale of new vehicles. Under current law, there is no cooling off period for the sale of used vehicles.

Certified Used Vehicles Defined. The measure defines "certified" used vehicles to mean only those used vehicles that have met specified standards. Current law does not define certified used vehicles.

New Disclosure Requirements. The measure requires that car dealers include certain information in a sales contract. Specifically, the measure requires that the sales contract include the buyer's credit score, the lowest interest rate for which the buyer qualifies, and the monthly cost to the buyer of after-market items. After-market items include such items as floor mats, extended warranties, and service contracts. Current law does not require the disclosure of such information in a vehicle sales contract.

Limitation on Car Dealer's Charge. The measure limits the amount a car dealer could charge a buyer for arranging a loan to a maximum of \$150. The measure also prohibits the car dealer from accepting any other commission, payment, or compensation for arranging the loan. Under current law, dealers are subject to some limitations in lending practices, but there is no specified dollar limit on the amount of money a car dealer can charge for arranging a loan for a buyer.

The majority of car buyers finance the purchase of the vehicle through a car dealer. These financing deals are often then transferred (usually at a profit for the dealer) to another company to service the loans. Such sales are referred to as "conditional contract sales." In far fewer instances, however, car dealers arrange financing for a buyer directly with a "third-party" lender such as a credit union. In these cases, the car dealer typically has no stake in the financing arrangement. Based on the intent language of the measure, this provision appears to apply to both conditional contract sales and the loans arranged with the third-party lenders.

Fiscal Effect

The measure's provisions relating to a cooling off period, certified vehicles, and disclosures would have minor, if any, fiscal impact on state and local governments. The provision which limits the amount a car dealer can charge for arranging a loan, however, could have a more significant fiscal impact, as discussed below.

Taxes Associated With Vehicles. Many state and local government taxes are affected by the sale of vehicles. For instance, the sales tax and vehicle license fee are collected on the sale price of the vehicle. The state's income and corporation taxes are collected on the profits of car dealers and financial institutions. As a result, changes to the vehicle industry can have a significant impact on state and local government revenues. Changes can affect the different tax revenues in a variety of ways.

Limitation on Car Dealer's Charge. As noted above, the fee limit provision appears to apply to both third-party loans and conditional sales contracts. This represents a majority of financed vehicle sale transactions. These transactions result in significant profits for car dealers—as much as several thousands of dollars for a conditional sales contract.

If this measure limited the ability of car dealers to profit from car financing arrangements, it could result in significant changes in the industry. For instance, in some cases, car dealers could increase the price of vehicles to offset the loss in financing profits. In other cases, consumers could obtain better overall prices on their vehicle purchases (accounting for vehicle price and interest payments combined). These types of changes would probably be most dramatic in the short term. Any such changes could

affect the various tax revenues related to vehicle sales in many ways (both increases and decreases). The net fiscal impact of the changes is unknown.

Limited Interpretation Possible. If the limit on the loan charges provision of this measure is interpreted to apply only to those cases in which car dealers arrange financing for a buyer with a third-party lender, the measure would apply to far fewer loans and would probably not significantly change the transaction between the car dealer and the lender. Consequently, there would not be a significant impact on state and local government tax revenues.

Summary

This measure would have the following major fiscal effect:

- Various possible impacts on state and local government revenues resulting from changes in the financing of vehicle sales. The net fiscal impact of these changes is unknown.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Donna Arduin
Director of Finance