

March 1, 2005

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 statutory initiative regarding the sale of vehicles and consumer protection laws (File No. SA2005RF0049).

Major Provisions of the Initiative

Cooling Off Period for Used Vehicle Purchases. The measure allows a “cooling off period” whereby the buyers of used vehicles could return a vehicle (if driven under 250 miles) to the car dealer within three days of purchase. A buyer would receive a refund of the sale price, adjusted for specified costs of the dealer. Cancellation of the sale would be required in writing and the vehicle would need to be returned before the close of business on the third day after taking delivery of the vehicle. 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 a “certified” used vehicle to mean only a vehicle that has met specified standards, including that it has not sustained damage which “substantially impairs” its use, value, or safety. Current law does not define certified used vehicles.

New Disclosure Requirements. The measure requires that car dealers disclose certain information to car buyers. Specifically, the measure requires that the car dealers’ disclosures include the buyer’s credit score and the monthly cost to the buyer of after-market items. After-market items include such items as surface protection treatments, extended warranties, and service contracts. Current law does not require the disclosure of such information.

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. 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.

Fiscal Effect

The measure's provisions relating to a cooling off period, certified vehicles, and disclosures could result in some increased state and local government enforcement activities. These costs, however, would probably be minor. The provision which limits the amount a car dealer can charge for arranging a loan 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 Dealers' Charges. Arranging loans results in significant profits for car dealers—as much as several thousands of dollars for some transactions. By limiting 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 these changes is unknown.

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

Tom Campbell
Director of Finance