

Date of Hearing: July 16, 2025

Fiscal: No

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair

SB 766 (Allen) – As Amended July 14, 2025

SENATE VOTE: 27-9

PROPOSED AMENDMENTS

SUBJECT: California Combating Auto Retail Scams (CARS) Act

SYNOPSIS

Among the most expensive and essential transactions the average consumer will enter into is the purchase of a vehicle. Yet this experience consistently generates voluminous complaints by consumers who feel deceived or manipulated through a combination of misleading statements and advertisements, hidden fees, unnecessary add-ons, and high-pressure tactics. Such practices are especially harmful to low-income consumers and also disadvantage competitor businesses that don't stoop to predatory practices. The Legislature sought to curb abusive practices by car dealers in the Car Buyer's Bill of Rights (AB 68 (Montañez), Stats. 2005, Ch. 128), which enhanced protections related to the marketing, sale, and financing of motor vehicles in California. Despite those reforms, auto sales and service have consistently ranked as the number one source of consumer complaints to state and local enforcement agencies.

This author-sponsored measure – the California Combating Auto Retail Scams (CARS) Act – is modeled after a recently vacated Federal Trade Commission rule that would have established strong protections against the most common forms of misconduct in auto transactions. In broad strokes, the bill:

- Prohibits dealers from making any misrepresentation regarding material information in connection with the sales or lease transaction.*
- Requires clear and conspicuous disclosures about the total price of the vehicle in advertising, financing terms, and add-on products or services.*
- Prohibits a dealer, in connection with the sale or financing of vehicles, from charging for add-on products that would not benefit the purchaser or lessee.*
- Establishes a mandatory three-business-day cooling-off period, or "right to cancel," for used vehicles priced at or below \$48,000, allowing consumers to return the vehicle for any reason and to obtain a refund, less a restocking fee, mileage deduction, and daily use fee.*
- Imposes record retention requirements, prescribes standardized cancellation disclosures, and requires the posting of clear signage at the point of sale.*

The bill is supported by a broad coalition of consumer protection and public interest organizations, including the California Low-Income Consumer Coalition, Consumers for Auto Reliability & Safety, and the Consumer Federation of California. It is also supported by non-profits organizations such as the Consumer Attorneys of California and Public Counsel. The measure is opposed by a coalition of organizations, led by the California New Car Dealers Association, as well as Carvana, and the California Credit Union League, among others.

Amendments set forth in Comment #4 are anticipated to bring several opponents to a neutral position.

The bill passed the Judiciary Committee on a 9-1 vote.

THIS BILL:

- 1) Defines, among other terms:
 - a) “Add-on” or “add-on product or service” as any product or service not provided to the purchaser or lessee or installed on the vehicle by the vehicle manufacturer and for which the dealer, directly or indirectly, charges a purchaser or lessee in connection with a vehicle sale, lease, or financing transaction.
 - b) “Material” or “materially” as likely to affect a person’s choice of, or conduct regarding, goods or services.
 - c) “Motor vehicle” by incorporating an existing definition, but excepts from that definition vehicles sold wholesale, vehicles not required to be registered, fleet sale transactions, sales commercial purchasers, and vehicles with a gross vehicle weight rating of 10,000 pounds or more.
 - d) “Service contract” to include products that provide consumers with some type of benefit or payment for repair, maintenance, or service on the vehicle purchased or leased.
 - e) “Total price” as the total sale price of a vehicle, excluding the taxes, fees, and charges, as well as any dealer price adjustment and the cost of any item installed on the vehicle at the time of the advertisement or communication. “Total price” does not include any deduction for a rebate.
 - f) “Use motor vehicle” or “used vehicle” consistent with existing law, but excepts motorcycles.
- 2) Prohibits dealers from making any misrepresentation regarding material information, including the costs or terms of purchasing, financing, or leasing a vehicle; whether the final contract is for the lease or sale of the vehicle; availability of vehicles at a total price; anything about add-on products or services; and other specified representations related to the transaction or remedies available to the consumer.
- 3) Provides that all disclosures required under the bill must be made clearly and conspicuously. Requires certain disclosures, including various disclosures related to the “total price” and financing of the vehicle in advertisements, negotiations, and other communications, and

written disclosures in connection with negotiations on the purchase or lease of the vehicle regarding the optionality of add-ons.

- 4) Prohibits a dealer, in connection with the sale or financing of vehicles, from charging for add-on products that would not benefit the purchaser or lessee, including nitrogen-filled tires with less than 95% nitrogen purity; products or services that do not provide coverage for the vehicle, consumer, or transaction; insurance agreements that do not comply with existing law; and certain services or equipment that do not apply to the vehicle. A dealer must pay the person or entity who is supposed to provide the benefit of the add-on within 10 days of the date when the car buyer or lessee signs the purchase or lease, except as specified.
- 5) Prohibits a dealer from selling or leasing a used vehicle for \$48,000, adjusted annually for the cost of living, without providing a 3-business-day right to cancel the purchase or lease. Requires the dealer to provide the buyer or lessee certain clear and conspicuous disclosures, including the means for exercising that right; the fact that the dealer may charge a restocking and daily use fee; a warning that the right cannot be exercised if the vehicle has been driven more than 400 miles; that the dealer may impose a charge for reasonable wear and tear; that the purchaser or lessee's inability to pay the restocking and damage does not prevent them from exercising this right; and that if the dealer sold the purchaser's or lessee's trade-in vehicle, the dealer must pay the purchaser the greater of the trade-in value, fair market value, or sale price. Specifies types of violations in connection with the right to cancel. Requires a disclosure informing consumers of the right to cancel.
- 6) Requires dealers to create and retain, for two-years after a record is created, records demonstrating that communications and advertisements of a vehicle's total price meet specified requirements; purchase orders, financing, and lease documents; records relating to add-ons; copies of cancellations requests, and proof of refunds and returns; and copies of written complaints and inquiries related to add-ons and vehicles.
- 7) Revises and recasts an existing notice requirement. The notice must be conspicuously placed, not less than 3x3 feet, 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 or executed that states:

“CALIFORNIA DOES NOT HAVE A COOLING-OFF PERIOD FOR NEW VEHICLES. BUT IF YOU PURCHASED OR LEASED A USED VEHICLE FOR \$___ OR LESS, YOU HAVE 3 BUSINESS DAYS TO CANCEL THIS CONTRACT FOR ANY REASON.

This cooling-off period also does not apply to the sale of a motorcycle or an off-highway motor vehicle subject to registration under California law. See the vehicle contract for details.”

- 8) Repeals the optional two-day contract cancellation right for used car buyers under existing law.
- 9) Provides that any waiver of the bill is void and unenforceable; the remedies of the bill are not exclusive of other remedies; includes a severability clause.

- 10) Provides that its provisions must be liberally construed to protect consumers and that any invalid provisions shall be severable.

EXISTING LAW:

- 1) Establishes the Consumer Legal Remedies Act (CLRA), which prohibits unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result, or which results, in the sale or lease of goods or services to any consumer. (Civ. Code § 1750 *et seq.*)
- 2) Authorizes a consumer who suffers harm from a violation of the CLRA to obtain actual damages, injunctive relief, restitution, punitive damages, and attorney's fees. (Civ. Code § 1780.)
- 3) Establishes the Unfair Competition Law (UCL), which prohibits unlawful, unfair, or fraudulent business acts or practices, and unfair, deceptive, untrue, or misleading advertising. (Bus. & Prof. Code § 17200 *et seq.*)
- 4) Establishes the False Advertising Law (FAL), which prohibits making or disseminating any statement known or reasonably should be known to be untrue or misleading, with the intent to dispose of real or personal property. (Bus. & Prof. Code § 17500 *et seq.*)
- 5) Provides common law remedies for individuals harmed by fraud, deceit, and misrepresentation, including concealment of material facts. (Civ. Code §§ 1709–1710, 1572–1573.)
- 6) Requires any person acting as a dealer, remanufacturer, manufacturer, or transporter, or as a manufacturer branch, remanufacturer branch, distributor, or distributor branch, to first obtain a license from the Department of Motor Vehicles. (Veh. Code § 11700.)
- 7) Prohibits a licensed dealer from making or disseminating any statement that is untrue or misleading and that is known, or that by the exercise of reasonable care should be known, to be untrue or misleading; or from disseminating such a statement as part of a plan or scheme not to sell a vehicle or service as advertised. (Veh. Code § 11713.)
- 8) Defines the “total price” of a vehicle for advertising purposes and allows dealers to exclude certain fees and government charges, including document processing charges, from advertised prices. (Veh. Code § 11713.1.)
- 9) Requires dealers to provide specified disclosures about a buyer's credit score and optional items such as maintenance plans, insurance products, debt cancellation agreements, and theft deterrents, when they arrange vehicle financing. (Civ. Code § 2982.2.)
- 10) Restricts dealers from including add-ons or inflating installment or down payments after the buyer and seller have agreed to the purchase terms, in order to disguise additional charges. (Civ. Code § 2982.2.)
- 11) Prohibits the sale of Guaranteed Asset Protection (GAP) waivers unless they meet specific conditions, and requires disclosures and cancellation rights in connection with GAP products. (Civ. Code §§ 2982, 2982.2, and 2982.12.)

- 12) Requires dealers selling certain used vehicles to offer a 2-day contract cancellation option to the buyer if the vehicle is under \$40,000, and permits dealers to charge for this option. (Veh. Code § 11713.21.)
- 13) Prohibits a dealer from retaining a trade-in vehicle or cash down payment, charging fees, or initiating legal action if a vehicle sale or lease transaction is not finalized. (Veh. Code § 11709.4.)
- 14) Requires dealers to retain sales finance documents, including conditional sale contracts, lease agreements, and related materials, for a minimum of seven years. (Civ. Code § 2984.5.)
- 15) Requires businesses to provide translated copies of contracts and required disclosures when a contract is negotiated primarily in specified non-English languages, including Spanish, Chinese, Tagalog, Vietnamese, and Korean. (Civ. Code § 1632(b).)
- 16) Defines “clear as conspicuous” as in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language. (Civ. Code § 1798.91(a)(3).)

COMMENTS:

1) **Author’s statement.** According to the author:

This important legislation increases protections for consumers purchasing a car by codifying the Federal Trade Commission’s (FTC) CARS rule and by creating a 3-business-day “cooling-off” period to return used cars. Complaints about unfair and deceptive sales practices in the car purchasing process have been consistently at or near the top sources of consumer complaints across all sectors. Common complaints include lack of transparency on the full price of the vehicle, the monthly payment, the down payment, whether the car is for purchase or lease, and the availability of discounts and rebates. Other common complaints are misrepresentations about add-on services and features, along with misrepresentations about affiliations with the Department of Defense or US Armed Forces that target service members and veterans.

To address these pervasive problems, the FTC developed rules to prohibit car dealers from misrepresenting the price of the car, require dealers to be transparent about optional add-on services and features, prohibit add-on services and features that do not benefit the consumer, and provide additional benefits for service members and veterans. However, these rules were prevented from being implemented on purely administrative grounds, unfortunately leaving consumers without these well-developed protections.

In addition, it is common for consumers to face pressure to purchase a vehicle when they may have been misled on key details, particularly in the case of used cars where problems with the vehicle may not be initially obvious. While it is a standard practice for sellers to have 10 days to cancel a purchase agreement or change the terms, buyers under current law only have 2 days to return a vehicle and must pre-purchase this ability. To ensure consumers in California are protected from scams, misrepresentations, and have sufficient time to thoroughly read the purchase agreement, catch issues with the car, and mirror standard practices for sellers, SB 766 codifies the CARS Rule and creates a 3-business-day cooling-

off period for used car buyers to return their vehicle and receive a refund if the value does not exceed \$48,000 and the miles driven do not exceed 400, while permitting sellers to charge a restocking fee to avoid potential losses.

2) **Background.** As stated in the Senate Judiciary Committee’s analysis of this bill:

Car buying and dealership experiences consistently rank among the most frustrating consumer transactions, generating an overwhelming volume of complaints to regulatory agencies each year. Consumers complain of hidden fees, high-pressure sales tactics, confusing financing terms, and bait-and-switch advertising that lures customers with promises rarely fulfilled. Consumers frequently report feeling manipulated through complex pricing structures deliberately designed to obscure the true cost of vehicles, while some dealership financing departments push expensive add-ons and extended warranties of questionable value. The asymmetry of information and bargaining power between professional salespeople and occasional car buyers can create an environment where consumers feel vulnerable and distrustful, with many reporting misrepresentations about vehicle history, condition, or warranty coverage that only become apparent after purchase. This persistent pattern of dissatisfaction has made automotive transactions a perennial leader in consumer complaint rankings despite decades of attempted reforms and regulations. According to reports, the number one consumer complaint in 2022 pertained to the sales and repairs of new and used vehicles, holding the spot for seven years running.¹

Existing consumer protections. California provides consumers with significant remedies against unfair, deceptive, and abusive practices through the Unfair Competition Law, False Advertising Law, and the Consumer Legal Remedies, which authorize enforcement against such practices. Additionally, existing law provides certain protections specific to the car-buying experience, including a prohibition against misleading statements by vehicle dealers. Proponents of this bill argue, however, that these protections are not sufficiently tailored to the predatory practices of some unscrupulous dealers. According to the author:

Under existing law, there are insufficient protections for consumers in the car purchasing process. Between 2019 and 2023, the FTC received 162,000 complaints from consumers about unfair and deceptive sales practices. Californians file more than 15,000 auto-related complaints each year. In fact, the car sales industry is consistently at or near the top sources of consumer complaints to state and local consumer protection agencies and entities such as the Better Business Bureau. According to the Consumer Federation of America, based on data on consumer complaints filed with 33 consumer protection agencies in 24 states (including California), auto sales and service complaints repeatedly rank #1.

FTC CARS Rule. In response to concerns about deceptive practices in the vehicle sales context, the FTC finalized the Combating Auto Retail Scams (CARS) Rule in January 2024, a robust consumer protection framework:

The primary purpose of the FTC’s CARS Rule is to add truth and transparency to the car buying and leasing process by making it clear that certain deceptive or unfair practices are illegal – for example, bait-and-switch tactics, hidden charges, and other

¹ Jeanne Sahadi, *No surprises here: These are the top US consumer complaints, from cars to credit cards* (May 24, 2023) CNN, <https://www.cnn.com/2023/05/24/economy/top-consumer-complaints/index.html>.

conduct that harms consumers and honest dealers. Why is it called the CARS Rule? Because the Rule is about Combating Auto Retail Scams that cost consumers billions of dollars each year and cause honest dealers to lose business.²

The CARS Rule would have:

- Prohibited misrepresentations about material information.
- Required dealers to clearly disclose the offering price – the actual price anyone can pay to get the car, excluding only required government charges.
- Made it illegal for dealers to charge consumers for add-ons that do not provide a benefit.
- Required dealers to get consumers' express, informed consent before charging them for anything.

The FTC estimated the CARS Rule would “save consumers nationwide more than \$3.4 billion and an estimated 72 million hours each year shopping for vehicles.”³

Attorney General Rob Bonta, along with several other attorneys general, expressed their support for the proposed Rule. A press release quoted Attorney General Bonta:

“For many consumers, a vehicle is a necessity and can be the most expensive one-time purchase they ever make. That car or truck can be a lifeline that takes them to school, a job, or back home to their families,” said Attorney General Bonta. “Unfortunately, car dealers too often fail to honor advertised prices, tack on unnecessary add-on products, or engage in other deceptive practices. As attorneys general, we know these practices harm low-income consumers and we need more tools in the toolbox to address persistent unfair and deceptive practices in the auto sales industry.”⁴

However, the rule was subsequently vacated on procedural grounds.

3) What this bill would do. Modeled on the FTC’s vacated rule, this bill seeks to establish a comprehensive statutory framework to combat deceptive practices in the sale and leasing of motor vehicles.

Prohibitions on material misrepresentations. While existing law provides general remedies for material misrepresentations that cause financial detriment, this bill specifically targets categories of misrepresentation supporters argue are too common in vehicle transactions. The bill prohibits dealers from making any misrepresentation regarding material information, including the costs or terms of purchasing, financing, or leasing a vehicle; whether the final contract is for the lease or

² *FTC CARS Rule: Combating Auto Retail Scams – A Dealers Guide* (December 2023) FTC, quoted in KPA, *FTC CARS Rule Resource Hub*, <https://kpa.io/library/ftc-cars-rule-resource-hub/>.

³ *FTC Announces CARS Rule to Fight Scams in Vehicle Shopping* (Dec. 12, 2023) <https://www.ftc.gov/news-events/news/press-releases/2023/12/ftc-announces-cars-rule-fight-scams-vehicle-shopping>.

⁴ Attorney General Bonta Supports Biden Administration Effort to Protect Car Buyers (May 22, 2024) <https://oag.ca.gov/news/press-releases/attorney-general-bonta-supports-biden-administration-effort-protect-car-buyers>.

sale of the vehicle; availability of vehicles at a total price communicated by the dealer; anything about add-on products or services; and other specified representations related to the transaction or remedies available to the consumer.

Mandatory disclosures. The bill specifically mandates certain disclosures – all of which must be made clearly and conspicuously – including various disclosures related to the “total price” and financing of the vehicle in advertisements, negotiations, and other communications, and written disclosures in connection with negotiations on the purchase or lease of the vehicle regarding the optionality of add-ons.

Add-ons. SB 766 prohibits dealers from charging for an add-on product or service only when the buyer could not benefit from it. This provision targets products that are inherently inapplicable to the vehicle or transaction—for example, oil change packages sold with electric vehicles, or theft deterrent systems installed on vehicles that lack the relevant components.

Right to cancel. Under Vehicle Code section 11713.21, used car buyers may purchase a two-day return option for vehicles priced under \$40,000. This “contract cancellation option” is rarely used in practice because it must be pre-purchased and is often inadequately disclosed. This bill establishes a three-business-day cooling-off period for used vehicles priced under \$48,000. Dealers must provide detailed disclosures to inform buyers of this right. Buyers may return the vehicle without cause, provided they have driven fewer than 400 miles and return it in substantially the same condition. The bill allows for a tiered restocking fee based on the vehicle’s cash price: \$175 if the cash price is \$5,000 or less, \$350 if the cash price is less than \$10,000, and \$500 if cash price is \$10,000 or more. As discussed below, this section of the bill will be substantially amended in a way that brings several opponents to a neutral position.

Recordkeeping. Civil Code Section 2984.5 imposes some document retention obligations, but existing law does not require dealers to retain advertising, pricing communications, add-on disclosures, or cancellation records. According to proponents of this measure, that lack of documentation makes it difficult for regulators and consumers to prove violations, weakening the deterrent effect of consumer protection laws. This bill requires a two-year retention requirement for specified documents, including those related to sales, financing, add-ons, cancellation requests, and complaints.

4) Amendments addressing opposition concerns. Throughout this bill’s journey, the author, sponsors, and an opposition coalition led by the California New Car Dealers Association, have engaged in a painstakingly extensive – and in many ways exemplary – negotiation, organically resolving numerous concerns along the way.

Still outstanding is the issue of the three-day right to cancel, which the opposition coalition contends is unduly burdensome, as it can, in some cases, stretch to 7 calendar days, requires excessive notice, and caps fees at such a low amount that it may be cheaper than renting a car. Supporters contend, on the other hand, that the right to cancel is an essential consumer protection, writing:

One of the main benefits of the cooling-off period: it will help reduce the risk of “gotcha” scenarios where consumers are subjected to high-pressure sales tactics and / or misled about the condition of the car or the terms of the sale, or where they realize after buying the car it doesn’t meet their family’s needs, had prior major damage that was not disclosed, has a rolled-back odometer, fails to get the same mileage they were led to expect, would be

unusable for a disabled child or parent, or otherwise fails to meet their needs and expectations.

As set forth below, the author has agreed to another round of amendments that are anticipated to bring California New Car Dealers Association, Carvana, auto auctioneers, and others to a neutral position. The amendments revise and recast the 3-day right to cancel by, among other things:

- Changing the threshold for the price of the right to cancel from \$48,000, adjustable for inflation, to a flat \$50,000 figure.
- Specifically defining “three-day right to cancel” to clarify that it commences the day after the purchase or lease is executed. Thus, if a person buys a car Monday, they have until Thursday at the close of business to exercise the right. If, however, the third day falls on a day that the dealer is closed, the amendments provide that the right to cancel extends to the next day the dealer is open for business.
- Defining “restocking fee” and changing from tiers based on value to 1.5% of the sale price of the vehicle, but not less than \$200 or more than \$600. Additionally, if the vehicle has been driven over 250 miles, the dealer may also charge the buyer or lessee an additional \$1 for each mile over 250 miles, but this amount is capped at \$150, as the right to cancel does not apply if the vehicle has been driven more than 400 miles in the three-day window. The amendments also eliminate a \$60 daily use fee.
- Clarifying timing and implementation issues related to the right to cancel, including providing that:
 - The dealer may charge the restocking fee on the date the buyer or lessee exercises the right to cancel, unless the dealer owes a refund for the trade-in, in which case the restocking fee must be deducted from the amount of the refund. If the refund does not fully cover the restocking fee, the balance is owed the date the person exercises the right to cancel.
 - Refunds must generally be issued within 48 hours of the buyer or lessee exercising the right to cancel.
 - When returned, the vehicle must be in the same condition as when it was initially delivered to the buyer or lessee, apart from reasonable wear and tear or any defects or mechanical problems not caused by the buyer or lessee. The dealer must maintain documentation describing any damage beyond reasonable wear and tear, ensuring they will have to produce concrete evidence to back up any claim of unreasonable wear and tear.
- With respect to the value of a refund for a vehicle that the dealer has sold during the 3-day period, the amendments add a rebuttable presumption that the dealer has established “fair market value” if either (1) the trade-in value matches the value of a nationally recognized pricing guide, such as the Kelley Blue Book, or (2) the valuation equals the amount the dealer offered to purchase the trade-in vehicle in an offer that was valid for at least 7 days. This latter change reflects the business model of some online used car retailers, including bill opponent Carvana, which is anticipated to go neutral with the amendment.

- Revising and clarifying disclosure requirements related to the right to cancel.
- Excluding from the right to cancel vehicles sold at auction in compliance with specified provisions in existing law. This is anticipated to make entities that conduct auto auctions go to neutral.
- Making other conforming changes.

The amendments are as follows:

1784.31. The following definitions apply for purposes of this title:

[. . .]

(g) "Restocking fee" means both of the following fees that the dealer may charge a buyer or lessee who exercises the three-day right to cancel:

(1) One and one-half percent (1.5%) of the sale price of the vehicle, but not less than two hundred dollars (\$200) and not more than six hundred dollars (\$600).

(2) If the vehicle has been driven over 250 miles, the dealer may also charge the buyer or lessee an additional one dollar (\$1) for each mile over 250 miles, but this amount shall not exceed one hundred and fifty dollars (\$150).

[. . .]

(i) (1) "Three-day," as used in the phrase "three-day right to cancel," means the period in which a buyer or lessee of a used vehicle may exercise the right to cancel the purchase or lease as provided in Section 1784.43. Except as provided in paragraph (2), this period consists of the three calendar day period commencing the calendar day after the purchase or lease is executed.

(2) If the third day in the three calendar day period described in paragraph (1) falls on a day the dealership is closed to the public, the three-day right to cancel period extends to the next day the dealership is open to the public.

(3) The three-day right to cancel ends at the close of business on the last day of the period described in this subdivision.

[. . .]

1784.43. (a) **(1) (A)** A dealer shall not sell or lease a used vehicle at retail at a price equal to or less than ~~forty-eight fifty~~ **fifty** thousand dollars ~~(\$48,000), as adjusted pursuant to subdivision (f), to an entity or individual (\$50,000)~~ without providing the purchaser ~~buyer~~ **buyer** or lessee with ~~a three-business-day~~ **three-day** right to cancel the purchase or lease.

(B) The right to cancel does not apply if the car has been driven more than 400 miles between the execution of the sale or lease agreement and the date on which the buyer or lessee attempts to exercise the right.

(2) (A) A dealer may charge a buyer or lessee who exercises the right to cancel a restocking fee. Except as provided in subparagraph (B), the dealer may collect the restocking fee on the date the buyer or lessee exercises the right to cancel.

(B) (i) If the buyer or lessee is entitled to any refund, the restocking fee shall be deducted from the refund.

(ii) If the refund does not cover the full amount of the restocking fee, the balance is due at the time the buyer or lessee exercises the right to cancel.

(3) (A) If the right to cancel is exercised, the dealer shall return the buyer's or lessee's trade-in vehicle and all keys the buyer or lessee provided, if any, unless the dealer has sold or otherwise initiated the process to transfer the title of the trade-in vehicle, in which case the refund for the trade-in vehicle is the greater of the following:

(i) The agreed-upon value of the trade-in vehicle in the sales or lease agreement.

(ii) The amount for which the dealer sold the trade-in vehicle.

(iii) The fair market value of the trade-in vehicle.

(B) The dealer may deduct from the amount required by subparagraph (A) the amount necessary to satisfy outstanding indebtedness secured by the trade-in vehicle. The dealer shall provide the buyer or lessee a receipt documenting the cancellation that includes an itemized breakdown of the basis for each deduction.

(C) For the purposes of clause (iii) of subparagraph (A), the dealer shall have a rebuttable presumption of establishing the fair market value by either of the two valuation methods:

(i) The valuation equals the amount identified in a written offer to purchase the trade-in vehicle received by the buyer or lessee, and honored by the dealer, and that offer is valid for at least seven days; or

(ii) The valuation equals the vehicle's trade-in valuation when the right to cancel was exercised, as identified in a nationally recognized pricing guide selected by the dealer, and considering the vehicle's condition at the time the vehicle was traded-in. For the purposes of this subparagraph, "nationally recognized pricing guide" has the same meaning as paragraph (2) of subdivision (c) of Section 11950 of the Vehicle Code.

*(b) ~~To comply with subdivision (a), and notwithstanding~~ Notwithstanding Section 2981.9 of the Civil Code, a dealer shall provide the purchaser **buyer** or lessee **of a used vehicle subject to the right to cancel** a copy of a disclosure titled ~~"3-Business-Day~~ "3-Day Right to Cancel Used Car Purchase or Lease" on a separate document ~~that shall set forth this right clearly and conspicuously and that~~ document. **If the transaction is negotiated primarily in a language identified by subdivision (b) of Section 1632, the disclosure required by this subdivision shall also be provided in that language. The disclosure shall clearly and conspicuously** contain all of the following:*

*(1) The name of the ~~seller~~ **selling or leasing dealer** and the ~~purchaser~~ **buyer** or lessee.*

(2) A description and the vehicle identification number of the vehicle purchased.

(3) A statement specifying the time within which the buyer ~~shall~~ **or lessee must** exercise the right to cancel the purchase under the contract cancellation option **sale or lease** and return the vehicle to the dealer. ~~The dealer shall not specify a time that is earlier than the dealer's close of business on the third business day following the day on which the purchase or lease agreement was signed, and the vehicle was originally delivered to the purchaser or lessee by the dealer.~~

(4) A statement that ~~clearly and conspicuously discloses that~~ **although** the dealer cannot charge the purchaser **buyer** or lessee for the right to cancel the purchase or lease, **lease, the dealer may charge the buyer or lessee a restocking fee. The statement shall describe how both components of the restocking fee are calculated.**

~~(5) A statement that clearly and conspicuously discloses that the dealer may charge the purchaser or lessee a restocking fee only if the purchaser or lessee exercises the right to cancel and that the fee will be determined by multiplying the cash price of the vehicle on the purchase contract or the agreed-upon value for the vehicle on the lease agreement by the number of miles the vehicle was driven since the purchase or lease and divide that number by 150,000. In addition to any restocking fee, a dealer may charge a daily use fee of not more than sixty dollars (\$60) for each day that the vehicle was in the customer's possession.~~

~~(6)~~

(5) A statement that ~~clearly and conspicuously discloses that the purchaser~~ **the buyer** or lessee cannot exercise the option **right to cancel** if the vehicle has been driven more than 400 miles.

~~(7) A statement that clearly and conspicuously discloses that the dealer can charge the purchaser or lessee for damage to the vehicle beyond reasonable wear and tear, the dealer will have the burden of proving the damage is beyond reasonable wear and tear, and the dealer cannot withhold any portion of the purchaser's or lessee's downpayment, or their trade-in vehicle to pay for or to get the purchaser or lessee to pay what the dealer claims is damage beyond reasonable wear and tear.~~

~~(8) A statement that clearly and conspicuously discloses that the dealer cannot prevent the customer from exercising the right to cancel because they do not have the money to pay for the restocking fee or for damage the dealer claims is beyond reasonable wear and tear.~~

~~(9) A statement that clearly and conspicuously discloses that if the dealer has sold the purchaser's or lessee's trade-in vehicle, the dealer shall pay the purchaser or lessee the greater amount of the agreed-upon value of the trade-in vehicle on the purchase or lease agreement, the fair market value of the vehicle at the time when it was traded in, or the amount at which the dealer sold the trade-in vehicle.~~

(6) A statement that the right to cancel applies only if the following are personally delivered to the selling or leasing dealer during business hours by the buyer or lessee at the time the right to cancel is exercised:

(A) Restocking fees, except to the extent they are deducted from any refund as required by this section.

(B) The vehicle, meeting both of the following:

(i) Free of all liens and encumbrances, other than any lien or encumbrance created by or incidental to the sales or lease transaction.

(ii) In the same condition as when it was delivered by the dealer to the buyer or lessee, except reasonable wear and tear and any defect or mechanical problem that manifests or becomes evident after delivery that was not caused by the buyer or lessee. The dealer shall maintain documentation describing any damage beyond reasonable wear and tear.

(C) Any other cash or items received by the buyer or lessee in connection with the sale or lease of the vehicle.

(7) A statement that the dealer may require the buyer or lessee to execute documents reasonably necessary to effectuate the cancellation and refund and as reasonably required to comply with applicable law.

(8) (A) A statement that if the dealer has sold or otherwise initiated the process to transfer title of the buyer's or lessee's trade-in vehicle, the dealer shall pay the buyer or lessee the greater of the following:

(i) The agreed-upon value of the trade-in vehicle in the sales or lease agreement.

(ii) The amount for which the dealer sold the trade-in vehicle.

(iii) The fair market value of the trade-in vehicle.

(B) A statement that the amount of the refund may be reduced as necessary to satisfy outstanding indebtedness secured by the trade-in vehicle.

~~(10)~~

~~(9) A statement that clearly and conspicuously discloses if the dealer represents to the purchaser~~ *buyer* ~~or lessee that it sold the trade-in vehicle, it must provide the purchaser~~ *buyer* ~~or lessee a copy of the document showing the sale of the trade-in vehicle. The dealer shall redact the personal information of the person or entity to whom the trade-in vehicle was sold.~~

~~(c) It is a violation of this title for any dealer, in connection with a purchaser~~ *buyer* ~~or lessee exercising the right to cancel, to do any of the following:~~

~~(1) To do or say anything~~ *Anything* ~~to impede a purchaser~~ *buyer* ~~or lessee from exercising the right to cancel the purchase or lease of a vehicle as provided in this title.~~

~~(2) To overcharge the purchaser~~ *Overcharge the buyer* ~~or lessee for the restocking fee.~~

~~(3) To withhold the purchaser's~~ *Withhold the buyer's* ~~or lessee's downpayment or trade-in vehicle after the right to cancel has been exercised.~~

(4) ~~To fail~~ **Fail** to timely refund the ~~the purchaser's~~ **buyer's** or lessee's downpayment after the right to cancel has been exercised.

(5) ~~To fail~~ **Fail** to refund the amount owed for the ~~the purchaser's~~ **buyer's** or lessee's trade-in vehicle if the trade-in vehicle has been sold.

(6) ~~To fail~~ **Fail** to provide the ~~the purchaser~~ **buyer** or lessee the receipt or contract for the sale of the ~~the purchaser's~~ **buyer's** or lessee's trade-in vehicle.

(7) ~~To claim~~ **Claim** damage to the vehicle in excess of reasonable wear and tear without reasonable basis.

(8) ~~To claim~~ **Claim** the person authorized to return the ~~the purchaser's~~ **buyer's** or lessee's downpayment or trade-in vehicle is not available.

(d) (1) No later than 48 hours after the buyer or lessee exercises the right to cancel pursuant to this section, the dealer shall cancel the contract and provide the buyer or lessee with a full refund, minus any deduction allowed by this section. The dealer is not responsible for any delays outside the control of the dealer, including delays attributable to the processing of a refund by a bank, credit card company, or other financial institution.

(2) Notwithstanding paragraph (1), in the event the buyer or lessee made a payment through a method that does not result in an immediate verified transfer of funds to the dealer, such as a check, the dealer may delay providing the refund until two business days after the buyer or lessee's payment is verified. The dealer shall provide the buyer or lessee with documentation showing when the verification occurred.

~~(d)~~

(e) The dealer will clearly and conspicuously disclose on the first page of the purchase or lease agreement the following:

“CALIFORNIA DOES NOT HAVE A COOLING-OFF PERIOD FOR NEW VEHICLES. HOWEVER, IF YOU PURCHASED OR LEASED A USED VEHICLE, YOU HAVE 3 BUSINESS DAYS TO CANCEL THIS CONTRACT FOR ANY REASON. ADDITIONAL RESTRICTIONS MAY APPLY, INCLUDING A RESTOCKING FEE. You have up to 3-business days to return the vehicle to the dealer and cancel this contract and obtain a refund. Please review the disclosure, which the dealer is required by law to provide, for the details about this right and how to exercise it.”

~~(e)~~

(f) This section does not affect the ability of a buyer to rescind the contract or revoke acceptance under any other law.

~~(f)~~

(g) This section does not apply to a used vehicle with a purchase price greater than ~~forty-eight~~ **fifty** thousand dollars (~~\$48,000~~), as adjusted June 1, 2027, and every June 1 thereafter, by

~~the percentage change in the cost of living, as defined in Section 2212 of the Revenue and Taxation Code. (\$50,000).~~

(h) This section does not apply to the sale of a leased vehicle to the lessee if the lessee is in possession of the vehicle prior to the time of the sale.

(i) This section does not apply to a used vehicle sold at an auction, provided the used vehicle is in compliance with the requirements of Division 12 of the Vehicle Code.

(j) This section shall not be construed to limit the ability of a dealer to offer a right to cancel that provides greater consumer protections than those outlined in this section, including a right to cancel for additional vehicles, a longer return period, or reduced restocking fees. In such circumstances, the dealer may elect to make corresponding changes that describe these greater consumer protections in any consumer notice required by this section or Section 11709.2 of the Vehicle Code.

The amendments also include other conforming and technical changes throughout the bill.

ARGUMENTS IN SUPPORT: Consumers for Auto Reliability and Safety, co-sponsors of the bill, point to the importance of the 3-day right cancel:

Cooling-Off Period is a Necessary Antidote to High-Pressure Sales Tactics and Fraud

By allowing used car buyers time to get vehicles inspected by skilled auto technicians with access to computerized diagnostic equipment and lifts, the cooling off period in SB 766 would help address typical auto sales scams involving used cars, including:

- **Salvage, flood, and rebuilt wreck frauds:** According to Carfax, “damage from accidents and other causes is common. Carfax data shows as many as 40% of vehicles on the road sustained damage – about 110 million cars in the U.S....In fact, of all the used cars for sale now...about 1 in 4 have sustained damage.”

Every time there’s a hurricane, flood cars – which tend to be terribly unsafe and beyond repair – end up being shipped from the states where the disaster happened to California, where they are sold to unsuspecting used car buyers . . .

- **Recalled used car roulette:** Too often, unscrupulous car dealers sell used vehicles with potentially deadly safety recall defects, such as wheels that fall off, brakes that fail, loss of steering, catching on fire, and ticking time bomb Takata airbags that have caused dozens of fatalities and hundreds of debilitating injuries, including blindness and brain damage. Often, victims of this dangerous practice encounter lengthy delays in obtaining repairs. Tragically, some owners and passengers have been injured or killed. One report found that approximately 25% of vehicles CarMax offered for sale in California had at least one unrepaired safety recall defect. Many had multiple safety recall defects. More recently, CarMax’s own Board Chair openly admitted they fail to remedy safety recall defects. AutoNation also has a well-documented record of selling vehicles with unrepaired safety recall defects.
- **Clear-coding:** Some car dealers temporarily disconnect the battery or use a cheap device to erase the error codes, so the “check engine” light goes off until the car is

driven far enough (usually roughly 100 miles). Then – after the consumer has purchased the car -- the “check engine” light comes back on again, indicating the car has problems and may not pass California’s emissions testing and therefore cannot be legally operated in our state. As the Coalition for Clean Air asserts in their letter of support for SB 766, this practice is all too common and calls for providing used car buyers with a window of opportunity to return their vehicle for a refund, after they realize they were sold a seriously defective used car.

- **Odometer fraud:** According to the National Highway Traffic Safety Administration, odometer tampering costs consumers \$1 billion a year. Also, “it can be difficult, but not impossible, to detect whether an odometer has been altered.”

While odometer fraud is difficult for most consumers to detect, an experienced auto technician can often spot telltale signs of odometer tampering. “For digital odometers, you’ll likely need a professional to investigate. Some dealers will only clear the numbers on the dash but leave the data in the ECU [Electronic Control Unit]....Bringing in someone experienced and with the tools can help you detect odometer fraud. They can run various diagnostic tests and uncover tampering in various areas.”

According to vehicle history report provider Carfax, rolling back an odometer has never been easier and odometer fraud remains a widespread and serious issue for used car buyers across the country. Carfax warns that “In 2024 alone, more than 2.14 million cars on the road may have had their odometer rolled back....It can take a bad actor just seconds to roll back an odometer, causing unsuspecting buyers to lose an average of \$4,000 in value...not to mention the additional costs of unexpected repairs and potential safety risks.”

- **Churning.** Dishonest car dealers engage in the predatory practice of selling vehicles that break down soon after purchase, on terms that are unaffordable, then repossessing them when the owner stops making payments and reselling the same car over and over again, each time making an excessive profit.

For example: California’s former Attorney General Becerra and 33 other state attorneys general sued the nation’s largest subprime auto lender, Santander, over its deceptive and predatory lending practices, which resulted in an appallingly high default rate of 70%. The nationwide settlement totaled over \$550 million dollars. Californians who were harmed received over \$99 million in refunds.

This devastating practice is so prevalent and so outrageous that it got the attention of Last Week Tonight journalist John Oliver, who produced an episode that has garnered over 13 million views on YouTube, featuring a vehicle that a car dealer in California sold, repossessed, and sold again eight times in just three years.

ARGUMENTS IN OPPOSITION: A coalition of opponents, led by California New Car Dealers Association, writes in opposition to a prior version of the bill

As amended, SB 766 still contains significant ambiguities and unworkable new requirements that will invite shakedown lawsuits against California dealerships throughout the state. By forcing dealers to provide a litany of duplicative and unnecessary disclosures throughout the car buying process, SB 766 will also substantially increase the length of vehicle transactions,

leading to customer frustration at a time when dealerships and the Legislature should be working together to identify ways to streamline the process.

Additionally, SB 766 provides purchasers of used vehicles 3 “business days” to return the vehicle, which in practice means 3 to 5 (and potentially 7) calendar days. The low restocking and daily rate fees allowed by SB 766 create a financial incentive for customers to purchase and return used vehicles instead of renting vehicles. Dealers will also see far more vehicle returns and will be required to adjust used vehicle prices upward to account for the likelihood that the customer will return the vehicle.

However, as discussed above, it is anticipated that the amendments will move the California New Car Dealers Association and others to a neutral position.

REGISTERED SUPPORT / OPPOSITION:

Support

1 Individual
Americans for Financial Reform
Bet Tzedek
California Low-income Consumer Coalition
Calpirg
Cameo Network
Center for Auto Safety
Centro Legal De LA Raza
Coalition for Clean Air
Community Legal Services in East Palo Alto
Consumer Attorneys of California
Consumer Federation of America
Consumer Federation of California
Consumer Protection Policy Center/usd School of Law
Consumer Reports
Consumers for Auto Reliability & Safety
Contra Costa Senior Legal Services
Elder Law & Advocacy
Housing & Economic Right Advocates
Legal Aid of Marin
Legal Assistance for Seniors
Legal Assistance to the Elderly
National Association of Consumer Advocates
National Association of Consumer Advocates (NACA)
National Consumer Law Center
National Consumers League
Open Door Legal
Public Citizen
Public Counsel
Public Law Center
Rise Economy
Riverside Legal Aid

Santa Clara Law
Unidosus
Watsonville Law Center

Oppose

American Financial Services Association
California Chamber of Commerce
California Credit Union League
California Financial Services Association
California New Car Dealers Association
CarMax
Civil Justice Association of California
Cnda-california Motorcycle Dealers Association
Enterprise Mobility
Greater Los Angeles New Car Dealers Association
New Car Dealer Association San Diego County
Orange County Auto Dealers Association
Service Contract Industry Council, Motor Vehicle Protection Product Association

Oppose Unless Amended

Carvana
Insurance Auto Auctions, INC.

Analysis Prepared by: Josh Tosney / P. & C.P. / (916) 319-2200