

New Requirements for Buy-Here-Pay-Here Dealers

New Information

Effective January 1, 2013, legislation imposes new requirements on licensed vehicle dealers **meeting** the definition of a buy-here-pay-here (BHPH) dealer.

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, on every vehicle (as defined by CVC §670) sold or leased, to:

- Restrict the use of global positioning satellite (GPS) and starter interrupt devices, unless the buyer has been advised. *As with all consumer advisory requirements, the department recommends the advisory statement be in writing and the buyer’s signature is obtained on such written document.*
- Affix and prominently display a label on any used vehicle offered for retail sale that states the reasonable market value of the vehicle. The label **must** meet all of the following conditions:
 - Printed with a heading in at least 16-point bold type that reads “REASONABLE MARKET VALUE OF THIS VEHICLE” with text at least 12-point type.
 - Located adjacent to the *Used Car Buyer’s Guide* located prominently and conspicuously on the vehicle so that it is readily readable.
 - Identify all equipment included with the vehicle.
 - Contain the information used to determine the reasonable market value of the vehicle, including, but not limited to, the use of a nationally recognized pricing guide for used vehicles.
 - Contain the date the reasonable market value was determined.
 - Indicate that the reasonable market value is being provided only for comparison shopping and is not the retail sales price or the advertised price of the vehicle.

BHPH Dealer Requirements, *continued*

- Provide the prospective buyer of the used vehicle a copy of any information obtained from a nationally recognized pricing guide that the dealer used to determine the reasonable value of the vehicle.
- Display the *Used Car Buyers Guide* listing all warranty information and parts covered.
- Issue a BHPH dealers written warranty 30-day or 1000-mile to the buyer or lessee covering the following specified parts and systems:
 - Engine, including all internally lubricated parts.
 - Transmission and transaxle.
 - Front and rear-wheel drive components.
 - Engine cooling system.
 - Alternator, generator, starter, and ignition system, not including the battery.
 - Braking system.
 - Front and rear suspension systems.
 - Steering system and components.
 - Seatbelts.
 - Inflatable restraint systems installed on the vehicle as originally manufactured.
 - Catalytic converter and other emissions components necessary for the vehicle to pass a California emissions test.
 - Heater.
 - Seals and gaskets on components described in the warranty (CCC §§1795.51, 2983.37, and CVC §§241, 241.1).
 - Electrical, electronic, and computer components, that substantially affect the functionality of other components described in this subdivision.

Additional Provisions

- A BHPH dealer must either repair covered parts that fail or cancel the sale or lease and reimburse the buyer or lessee, as specified. For used vehicle rollback instructions, see the *Vehicle Industry Registration Procedures Manual* §11.040 available online at http://www.dmv.ca.gov/pubs/reg_hdbk_pdf/ch11_transfers.pdf.
- The BHPH dealer is required to pay 100 percent of the cost of labor and parts for any repairs under the warranty and may **not** charge for inspecting, or teardown of parts, or any deductible.
- Voids any purchase or lease agreement that waives, limits, or disclaims these requirements.
- Provides that a warranty is deemed to have been issued if the dealer fails to issue a warranty pursuant to provisions listed in CCC §1795.51, and CVC §§241, 665, 670.
- Prohibits a BHPH dealer from:
 - a. Requiring the buyer to make payments in person.
 - b. Repossessing the vehicle or charging a penalty fee following timely payment of a deferred down payment, as specified in CCC §1795.51.
 - c. Using electronic tracking or disabling devices after the sale, except as specified.
- Makes a violation of a, b, or c (above) a misdemeanor punishable by a fine of up to \$1000.

Background

This memo is an overview of the new BHPH dealer requirements. Refer to CCC §§1795.51, 2981(a), 2983.37, and 2985.7(d), and CVC §§241 and 241.1 found on the California legislative information website at www.leginfo.ca.gov for the exact terms and requirements.

References

California Vehicle Code §§241, 241.1, 285, 665, 670, and 11713.18

California Civil Code §§1795.51, 2981(a), 2983.37, and 2985.7(d)

Distribution

Notification that this memo is available online at www.dmv.ca.gov/pubs/olin/olin.htm was made via California DMV's Automated E-mail Alert System in December 2012 to the following:

- Dealers
- Salespersons

Contact

Questions regarding this memo may be directed to the Occupational Licensing Compliance Unit, at (916) 229-3154.



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