

Date of Hearing: April 4, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1777 (Lackey) – As Amended March 28, 2016

**SUBJECT:** Used vehicle sales: salespersons' licenses

**SUMMARY:** Includes used car salespersons in the class of applicants required to complete a preliminary educational program before receiving an occupational license from the Department of Motor Vehicles (DMV). Specifically, **this bill:**

- 1) Requires an applicant for a DMV occupational license or renewal of that license who is employed by a dealer that sells only used vehicles for retail sale to complete a specific educational program required of certain other license applicants.
- 2) Requires a salesperson to provide evidence of completion of the educational requirements to the motor vehicle dealer that employs the salesperson.
- 3) Requires the dealer to maintain a copy of the evidence of completion at the location where the salesperson is employed, subject to inspection by DMV.
- 4) Exempts from these requirements an applicant who is employed by a dealer with a minimum of ten branches in the state who provides a minimum of ten hours of training per year to its salespersons.

**EXISTING LAW:**

- 1) Prohibits any person from acting as a dealer, manufacturer, distributor, transporter, or salesperson of motor vehicles without first procuring a license or temporary permit issued by DMV.
- 2) Requires a person applying for a dealer's license for the purpose of selling used vehicles to complete a written examination and an educational program covering specified topics before being issued that license, and to successfully complete, every two years after that license is issued, a four-hour educational program in order to maintain or renew that license.

**FISCAL EFFECT:** Unknown

**COMMENTS:** In order to receive a license to act as a used motor vehicle dealer, an applicant must complete an educational program covering topics including, but not limited to, motor vehicle financing, truth in lending, sales and use taxes, advertising, unlawful dealer activities, and handling, completion, and disposition of DMV forms. The applicant must then successfully complete a written examination prepared and administered by the DMV covering these same topics. Once licensed, the dealer must then complete a four-hour educational program every two years to maintain or renew the license. The educational course can be provided by DMV or a number of third-party entities provided that their curriculum is approved by DMV. The course can range from an online offering to in-person classroom instruction, with the cost varying depending on the mode of instruction.

If a dealer sells even a single used vehicle, they must comply with the requirement to complete the educational program and the written examination before being licensed, meaning virtually all dealers must complete the program. Even a dealer who would conventionally be referred to as “a new car dealer” must comply with the DMV educational requirements if they sell any number of used vehicles on their lot. A vehicle salesperson, at a new or used dealership, must also obtain a license from DMV, but does not need to complete the educational program or written examination.

This bill would require a salesperson employed by a dealer that sells only used vehicles to complete the same educational program and written examination that dealers must complete, before receiving a license from DMV, and every two years thereafter to maintain or renew the license.

According to the author, vehicle salespeople are typically the first point of contact at a car dealership, and consumers often rely on salespeople for accurate and factual information that will go into making a significant financial decision. Sometimes, salespeople at a used vehicle dealership handle the entire vehicle purchase transaction from introduction to delivery. While the owner of a used vehicle dealership is required to complete an educational program and successfully pass a written examination, the salespeople at that dealership are not. As such, the author believes there is an inconsistency in the expectations and standards placed on dealers and on salespeople.

According to the Independent Automobile Dealers Association of California (IADAC), the sponsor of this bill, penalties for dealers who either intentionally or unintentionally fail to provide a fair transaction for the consumer can be great, and can include revocation of a license from DMV and civil penalties. The significant financial impact of mishandling transactions at a new vehicle dealer, which could include the loss of a franchise agreement at the cost of millions of dollars due to the high volume of transactions conducted by the dealer, encourages new vehicle dealers to ensure compliance with proper consumer transaction standards. Similarly due to the high volume of transactions conducted by new vehicle dealers, new vehicle sales transactions are often conducted by different employees at different stages, to ensure each function is carried out properly and in compliance with the law. Franchisors typically require salespersons at their franchisees to complete their own form of training and education to ensure compliance. For a used vehicle dealer, generally conducting a smaller volume of transactions, if a salesperson fails to comply with consumer transaction standards, it is the dealer that will be penalized through civil penalties or the revocation of a license from DMV.

IADAC argues that adequately educating dealers and salespeople would have a positive effect on consumer transactions by minimizing the number of consumer complaints and minimizing the chance of a used vehicle salesperson making a mistake due to lack of training.

This bill also specifically exempts a salesperson employed by a dealer with more than ten locations in the state who provides a minimum of ten hours of training per year to its salespersons. This exemption would apply to large used vehicle dealer chains that operate in the state with more locations and employees than the typical independent used vehicle dealer. These chains have expressed confidence in their own training practices and procedures and believe they are effective beyond what would be required in the existing DMV educational program.

*Committee concerns:* As noted above, salespersons at new car dealership are typically subject to significant franchise training requirements because of the financial risk to the dealer of losing their license. While such a risk seems to provide sufficient incentive to new car dealers to train their employees, it is unclear why it is not sufficient to compel used car dealers to do the same. Requiring the completion of a training course at a cost to an applicant, simply to insulate dealers from responsibility to properly comply with consumer transaction standards, seems to be an unreasonable burden to place on salespersons.

Furthermore, it is unclear what problem is solved by the Legislature mandating completion of an educational course for used vehicle salespersons. Insufficient data has been presented to demonstrate a deleterious effect on consumer protection associated with the lack of state-mandated education for salespersons. To the extent such a negative impact exists, it is unclear why dealers cannot train their own employees to gain a competitive advantage over competitors whose salespersons are not trained.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Independent Automobile Dealers Association of California (Sponsor)

##### **Opposition**

None on file

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