

Date of Hearing: April 16, 2018

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Jim Frazier, Chair

AB 2026 (Lackey) – As Amended April 10, 2018

**SUBJECT:** Used vehicle salespersons

**SUMMARY:** Requires a person licensed by the Department of Motor Vehicles (DMV) as a salesperson for a dealer of used vehicles to complete an education program before they can perform their duties, activities and functions. Specifically, **this bill**:

- 1) Prohibits a person who is licensed as a salesperson for a dealer of used vehicles from performing the duties, activities, and functions of a sales person unless they have completed an education program in the last two years.
- 2) Requires a person who is licensed as a salesperson for a dealer of used vehicles to complete an educational program within the first six months of employment, and then every three years thereafter.
- 3) Requires the education program to be not less than four hours, and cover the following topics:
  - a) Motor vehicle financing;
  - b) Truth in lending;
  - c) Sales and use taxes;
  - d) Advertising;
  - e) Odometers;
  - f) Vehicle licensing and registration;
  - g) Branch locations;
  - h) Offsite sales;
  - i) Unlawful dealer activities;
  - j) Air pollution control requirements;
  - k) Regulations of the Bureau of Automotive Repair;
  - l) Handling, completion and disposition of departmental forms; and,
  - m) The equipment of vehicles
- 4) Requires a salesperson to provide evidence of completion of the education program to their employer unless the educational program was provided by the employer.

- 5) Exempts the following salespersons from the requirement:
  - a) A new vehicle dealer that sells only new vehicles or a combination of new and used vehicles at the place of business where the salesperson is employed.
  - b) A person who holds a license as an automobile dismantler.
  - c) A person who holds a motorcycle only dealer's license.
  - d) A person who holds a trailer only dealer's license.
  - e) A person who holds an all-terrain only dealer's license.
- 6) Allows a dealer that sells used vehicles and operates a minimum of 10 branches of the business within the state to provide the education class to their employees.
- 7) Requires dealers to compensate the salesperson for the cost of the education program and for the time taken in the class unless the salesperson opts to take a class at a time or place not prescribed by the employer, as long as the employer provides reasonable opportunity for the employee to take the educational program at the employer's expense.

**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.
- 3) Requires a salesperson employed by a dealer to receive a license with the DMV and to renew their license every three years.
- 4) Defines "vehicle salesperson" as a person who does one or a combination of the following:
  - a) Is employed as a salesperson by a dealer, as, or who, under any form of contract, agreement, or arrangement with a dealer, for commission, money, profit, or other thing of value, sells, exchanges, buys, or offers for sale, negotiates, or attempts to negotiate, a sale, or exchange of an interest in a vehicle required to be registered with DMV.
  - b) Induces or attempts to induce any person to buy or exchange an interest in a vehicle required to be registered, and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller or purchaser of the vehicle.
  - c) Exercises managerial control over the business of a licensed vehicle dealer or who supervises vehicle salespersons employed by a licensed dealer, whether compensated by salary or commission, including, but not limited to, any person who is employed by the

dealer as a general manager, assistant general manager, or sales manager, or any employee of a licensed vehicle dealer who negotiates with or induces a customer to enter into a security agreement or purchase agreement or purchase order for the sale of a vehicle on behalf of the licensed vehicle dealer.

**FISCAL EFFECT:** Unknown

**COMMENTS:** The DMV requires every manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer of vehicles to receive a license from the DMV. As part of that license, an applicant is required to take a four-hour educational course and pass an examination on equipment relating to vehicles, advertising, odometers, vehicle licensing and registration, branch locations, offsite sales, unlawful dealer activities and the handling, completion and disposition of departmental forms.

A dealer is not required to take the educational program if the program is completed by a managerial employee of the dealer. Dealers who sell vehicles on a wholesale basis only and who, in a one-year period, deal with less than 50 vehicles subject to registration are also exempt. An applicant for a new vehicle dealer's license or any employee of that dealer, a person who holds a valid license or an applicant for as an automobile dismantler or their employees, an applicant for a motorcycle-only dealers license or their employees, an applicant for a trailer only dealers license or their employees and an applicant for an all-terrain only dealer's license or their employees are also exempt from taking the educational exam.

Vehicle salespersons are required to be licensed with the DMV and are required to renew their license every year. There are no examination requirements set forward for someone to become a licensed salesperson. While all dealer salespersons are required to be licensed, this bill only requires salespersons employed by used car dealers that exclusively sell used vehicles to participate in the educational program. This bill exempts new cars salespersons, automobile dismantlers, motorcycle only dealers, trailer only dealers, and all-terrain only dealers. Most of these exemptions mirror the exemptions for the dealer owners education requirement. The sponsors contend that they are exempting new car dealers from the requirement because franchise agreements and other legal barriers provide sufficient incentive for those dealers to provide the proper training to their employees.

The Independent Automobile Dealers Association of California, who is sponsoring this bill, states, "In an attempt to create better transactions for consumers AB 2026 asks that California requires licensed salespeople take the same continuing education course as is required of a dealer/owner. Compared to other industries, the auto industry stands out with its lack of education for licensed salespeople. No other major industries allow licensing for individuals without an educational component. An automobile purchase is often the first or second most expensive purchase made by consumers. Evidence confirms that many auto purchase transactions by independent dealers contain errors of some kind by salespeople as a result of a general lack of knowledge of applicable laws and regulations."

*Committee comments:* This bill treats salespersons differently depending on the type of dealership for which they work for. New car dealer salespersons will not have to take the education program, while car salespersons who work for larger chain dealerships will be able to be educated directly by their dealer to satisfy the requirements of this bill. The sponsors contend that new car dealers and larger chain used dealers properly train their staff because of franchise

agreements and potential legal hurdles. It is unclear why these same issues would not lead to smaller dealers properly training their staff as well. In order to ensure dealers are not simply outsourcing their training requirements in a manner that would result in a cost to their workers, the author agreed to take amendments to require employers to be responsible for paying for the cost of the education program, and to be responsible for compensating the employee for the time they spend in the education program.

**REGISTERED SUPPORT / OPPOSITION:****Support**

Independent Automobile Dealers Association of California (Sponsor)  
Beas Auto Sales  
Becks Auto Sales  
Cal West Motors  
CARSSYSTEMS  
Cost U Less Cars  
Guy Streohmeier's Auto Center  
Hibbon Auto Center  
I-Deals Cars Inc.  
Justbettercars.com  
Pacific Auto  
Park Marina Motors  
S& S Auto Sales Inc.  
Tristar Motors LLC  
3 private citizens

**Opposition**

None on file

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