



Consumers for Auto Reliability and Safety

July 5, 2016

Honorable Jerry Brown
Governor, State of California
State Capitol
Sacramento, CA 95814

Re: AB 516 (Mullin): Request for Veto

Dear Governor Brown:

Consumers for Auto Reliability and Safety (CARS) respectfully requests your veto of AB 516 (Mullin), which would increase the numbers of consumers who are unfairly penalized when they do not receive their permanent license plates within the 90-day deadline for displaying them on their car. This flies in the face of your administration's commendable policy of reducing unjustified penalties and incarceration of California citizens, which disproportionately impacts low-income people and their families, and communities of color.

AB 516 would result in more litigation when people are pulled over by police, ticketed, and arrested, and their vehicles impounded, due to circumstances beyond their control, including more litigation against the DMV. Plus it would result in job loss, which occurs when cars are impounded, causing a loss of the car buyer's only means of transportation to get to work.

We support the intent of the bill to provide temporary license tags, in order to make cars identifiable for law enforcement and other legitimate purposes. However, the author failed to address major problems raised by CARS and other consumer groups, and by civil rights organizations.

Currently, many innocent consumers are pulled over and ticketed, and their vehicles impounded, and they are arrested and imprisoned, due to failures of car dealers or others to provide them with their permanent plates on time. Under AB 516, the numbers of affected consumers will increase significantly, when it becomes easy for law enforcement agencies to scan temporary tags and tell at a glance whether they have expired.

It is blatantly unjust, and a waste of state resources, to penalize consumers by making it illegal for them to drive their own cars, when they have not received their permanent license plates within the 90-day deadline due to circumstances beyond their control, such as:

- Car dealers who go out of business without submitting registration documents to the Department of Motor Vehicles
- Car dealers who fail to obtain proper title to used vehicles prior to sale
- Car dealers who sell used vehicles that have outstanding, unpaid liens and are registered in the name of the lienholder
- Car dealers who sell used vehicles that have out-of-state registrations
- Car dealers who sell used vehicles with late registration fees due, or with unpaid tickets due
- First-line service providers who fail to process documents and send permanent license plates to the correct address within the 90-day deadline for consumers to display them
- Computer errors or other mistakes made by the DMV

Here are some real life examples of how Californians are already being impacted by the unfair policies the bill would make even worse:

A mother in Santa Clara bought a used car from a major franchised new car dealership in the East Bay last September. She paid approximately \$17,000 in cash, including fees for the dealer to handle the licensing and registration. More than 8 months later, the dealer has still failed to complete the registration. This has caused real hardship for her and her family. They have been forced to pay out of pocket to rent a vehicle, while the car they purchased sits in their driveway. To date, the dealer has refused to provide any explanation for the lengthy delay. The DMV has failed to get the dealer to provide the permanent plates, or to assist in completing the registration.

Jacob Regar, an attorney who represents low-income car buyers, writes that "I've had a pregnant client who bought a car from a large and respected dealership, made regular payments, and waited and waited for over three months to receive the registration, even though she was making monthly payments for the car to the selling dealer. She called the dealer, left messages, and notified the dealer in writing. She visited the DMV, and nothing could be done to get her tags until the dealer transferred the paperwork to the DMV. If police would have pulled my client over, they could have impounded the car, and my client would not have been able to get the car out from impound because she was not the registered owner."

Steven Simons, an attorney who also represents low-income consumers, writes that "I cannot begin to tell you the number of clients who have been pulled over, arrested and, yes, even jailed because the plates on the car they were driving (i.e. the ones from the dealer) had expired, or the temporary report of sale had expired...I currently represent Matt S. who has been pulled over no less than 5 times for expired license and the dealer took over 6 months, and a lawsuit from me, before the registration was completed. I also currently represent Myesha whose wages were garnished because the dealer did not provide the complete registration documents in a timely manner...I also represent a client, Johnathan, who was arrested and paid fines, for lack of registration, by a licensed salesman who was working through a dealer and the license was never completed. In that case we have a judgment that we have not been able to collect on for over three years."

According to Alicia Hinton of Fresno: "I am a consumer rights attorney and have represented many people frustrated with car dealers taking their money for DMV paperwork and then not submitting the forms to DMV."

According to Kalman Hutchens of Bellflower: "My dad [Lawrence Hutchens] just won a case at trial where Hooman Toyota didn't properly submit registration paperwork (moreover they didn't even

have in-state, transferable title) delaying registration. Vehicle began getting ticketed and was eventually towed for failure to obtain registration. Then the [consumer] couldn't get the car out of impound after paying the tickets because it still wasn't registered."

Consumer attorney Mark Anderson in San Francisco represented a low-income consumer who bought a vehicle from a Paul Blanco dealership that submitted the wrong Vehicle Identification Number (VIN) to the DMV. Despite the consumer's repeatedly contacting the dealer and the DMV, the dealer and DMV did not correct the VIN for months, while he continued to be ticketed for parking a vehicle with an expired tag. He was assessed over \$500 that he had to pay, or risk losing his car. He finally hired Mr. Anderson, who had to file a lawsuit in order to get the dealer to simply correct the VIN.

Consumer Action writes that "Through our consumer hotline we have heard from California car buyers who were repeatedly ticketed after dealerships took more than 90 days to send their customers permanent plates. One affected consumer, Nicole, called her dealership every day once months had passed, and was assured her plates were on the way, yet they never arrived. Her ordeal culminated with her car being towed and impounded."

Unfortunately, the author rejected amendments that were presented to his staff by CARS and the California Police Officers Association (CPOA) to address these serious problems that would be exacerbated under AB 516. Those amendments would have stated that consumers should not be cited if they displayed a temporary tag that had expired, but had not received their permanent plates. Instead, he amended the bill with language that is unworkable, and places an impossible burden on car buyers. It would require consumers to fill out a DMV form that is designed solely for registered owners of vehicles whose license plates are missing or stolen. However, that form does not apply when the plates were never received – which is precisely the problem that needs to be addressed.

In addition, the form itself says on its face that the consumer has to sign, *under penalty of perjury*, that they are the "**registered owner of record.**" But that is the problem. They are not the registered owner, because of situations beyond their control. So instead of preventing consumers whose registration has not been completed from being pulled over and cited, all it would do is create a new Catch-22.

The bill also makes the false assumptions that consumers will be aware of the 90-day deadline, and aware which form they would need to fill out, and that they should keep a copy with them at all times, in case their permanent plates do not arrive on time.

Further, while the bill says that when consumers are ticketed, it is a "correctable offense," or "fix-it" ticket, the ability to correct it is illusory. This would only result in more frustration and injustice. That is because in order to correct the offense, the car buyers must somehow get the dealer and DMV to complete the registration and send them their permanent plates. That is precisely why they are being ticketed – because the registration was not completed, due to the failure of the dealer and/or the DMV to process their registration properly. Often they have already been contacting the dealer and DMV repeatedly, and are powerless to get them to act, short of a lawsuit.

In addition, the bill would make merely altering the date on a temporary tag a **wobbler / felony** offense, punishable by hefty fines and imprisonment. This means that someone who is an innocent victim of delays caused by the dealer, service provider, or DMV could be imprisoned for a felony offense, if they merely change the date on a temporary tag, in an attempt to avoid being pulled over and ticketed as they drive to work – even when they have been making good faith attempts to obtain their

permanent plates, and their vehicle is readily identifiable, thanks to the license number on the temporary tag.

AB 516 would also increase by \$5 the amount car dealers would be permitted to charge as “document processing fees,” yet another totally unjustified multi-million dollar windfall for car dealers, at the expense of car buyers. Note that the bill would allow dealers to charge the extra \$5 even when the consumers do not receive a temporary tag. This provision is reminiscent of a bill that Governor Schwarzenegger vetoed in 2005, AB 1001, with this veto message:

“To the Members of the California State Assembly:

I am returning Assembly Bill 1001 without my signature. This bill would increase the maximum document fee paid by car buyers from \$45 to \$55. Such fees are not usually discussed with the car buyer until the purchase price has been agreed upon and a disclosure is made on the conditional sales contract. I recently signed the Car Buyer Bill of Rights and AB 1001 runs contrary to that bill's worthy goal to improve consumer protection. I do not believe that California consumers should be saddled with another hidden fee and therefore cannot support this measure.

Sincerely,

Arnold Schwarzenegger

GOVERNOR”

The existing maximum fee of \$80 is quite generous to car dealers, and more than adequate to compensate them for any registration / license tag services they provide, which are generally little more than entering information provided by consumers into computers and placing a tag or other document on the car.

The last “doc fee” increase, enacted under AB 1215 (Blumenfeld, chaptered in 2011) was a carefully negotiated compromise that was balanced by a significant public benefit, in the form of a requirement that all California car dealers must check the National Motor Vehicle Title Information System, established by the U.S. Department of Justice, regarding each used vehicle they offer for sale, and provide prominent on-vehicle warning stickers whenever a vehicle appears in NMVTIS with a “salvage” or “total loss” history or a title brand such as “junk,” “flood,” or “lemon law buyback.” However, under AB 516 there is no public benefit – merely a windfall for auto dealers, at the expense of millions of California new and used car buyers.

The biggest beneficiaries of the “doc fee” increase would be high-volume auto dealer chains, such as AutoNation, the nation's largest dealership chain, with headquarters in Florida, which took in over \$19 billion in gross revenue last year. Their largest investor is Bill Gates. Or CarMax, the largest retailer of used cars in the nation, and based in Virginia, which made approximately \$2 billion in profits last year. Both are publicly traded on Wall Street. Particularly at a time when investors like Warren Buffett are buying up car dealerships, and they are enjoying record profits, while millions of California car buyers are struggling to put food on the table for their families, there is no justification whatsoever for car dealers to be awarded this windfall, at the expense of car buyers.

For the reasons stated, we respectfully request your veto of AB 516, because it fails to provide reasonable protections for car buyers from the arbitrary 90-day deadline for displaying their permanent plates, when they experience delays through no fault of their own; fails to eliminate the wobbler / felony penalty for merely altering the expiration date on the temporary tag; and fails to eliminate the totally unjustified dealer “doc fee” increase.

Thank you for your consideration of our request. Should you or your staff have any questions regarding our position, please do not hesitate to contact me directly.

Respectfully yours,

A handwritten signature in black ink that reads "Rosemary Shahan". The signature is written in a cursive style with a large initial "R".

Rosemary Shahan
President

CC: Assemblymember Kevin Mullin
Michael Martinez
Ronda Paschal