



May 17, 2016

Honorable Matt Dababneh
Assemblymember
California State Assembly
State Capitol
Sacramento, CA 95814

Re: AB 1743 (Dababneh): Electronic contracts for car purchases: OPPOSE

Dear Assemblymember Dababneh:

The above-listed organizations regret to inform you of our opposition to your measure, AB 1743, which is sponsored by the California New Car Dealers Association. Currently, under California's Uniform Electronic Transactions Act, auto dealers are not permitted to enter into electronic conditional sales contracts for the purchase or lease of new or used motor vehicles. This bill would allow such practices.

Under existing law, the Uniform Electronic Transactions Act exempts certain transactions which are particularly high-stakes for consumers, including auto sales and leases and home purchases. That is sound public policy. Typically, electronic transactions involve credit cards and purchases that are relatively simple, generally involve relatively small dollar amounts compared with a car or a home, and where there are statutory safeguards, including under the Fair Credit Billing Act against illegal practices, such as fraud and identity theft, and limits on the consumer's liability.

Those protections are lacking in auto purchases and leases. In addition, car purchase transactions typically are the second-largest purchases most Californians make, second only to a home. The transactions are also uniquely complex and complicated, involving negotiations and decisions over the make / model / condition and price of the car, the price of any traded-in vehicle, the length of the loan, the interest rate, and numerous add-on items or prepaid services with huge markups and profits for dealers, but little or no real value for car buyers.

Unfortunately, the bill would have some serious unintended consequences. It would make it far easier for unscrupulous car dealers to engage in fraud and other predatory practices, and make it much more difficult and expensive for victims of such practices to prove forgery, fraud, or violations of the Automotive Sales Finance Act, Rees-Levering, Consumer Legal Remedies Act, or other consumer protection laws.

Compared with paper documents, which can show tell-tale signs if they are altered, or if there are forgeries, electronic documents are easy for unscrupulous dealers to game. It is very troubling that, according to the analysis for the Assembly Committee on the Judiciary, under the bill as proposed to be amended, if there is a discrepancy between the electronic version and the printed version, there would be no presumption that either document would be accurate. This would open up an entire new avenue for committing fraud. It would severely disadvantage moderate and low-income car buyers, who lack the funds to hire expensive experts and attorneys in order to gain access to the computerized records and software, to challenge the accuracy of the documents. As a practical matter, it would become impossible to prove technologically sophisticated schemes including fraud, forgery, or other serious violations of the law.

New and used car dealers rank # 1 among consumer complaints filed with the Better Business Bureau. California car dealers have been the targets of enforcement actions by the Department of Motor Vehicles, California Attorneys General, and the Federal Trade Commission over practices such as forgery, selling “used” vehicles as “new,” yo-yo financing, false and deceptive advertising, bait-and-switch, loan-packing of unwanted items, pocketing funds intended to pay for add-ons, and other serious violations of the law. According to the Board of Equalization, auto dealers repeatedly rank among the worst tax scofflaws in the state. It is clear that car dealers cannot be trusted not to abuse the new means of ripping off their customers, afforded by AB 1743.

In short, the potential harm posed by AB 1743 far outweighs any supposed benefits. Therefore, we must oppose the bill. Should you or your staff have any questions regarding our position, please do not hesitate to contact us directly.

Sincerely,

Aaron Lewis
Legislative Advocate
Consumer Federation of California

Maeve Elise Brown
Executive Director
Housing and Economic Rights Advocates

Noe Paramo
Legislative Advocate
California Rural Legal Assistance Foundation

Carmen Balber
Executive Director
Consumer Watchdog

Joseph Ridout
Consumer Services Manager
Consumer Action