



Consumers for Auto Reliability and Safety

March 6, 2012

Honorable Mark DeSaulnier
Chairperson, Senate Committee on Transportation and Housing
California State Senate
State Capitol
Sacramento, CA 95814

Re: SB 990 (Vargas) -- Vehicle History Reports
Position: OPPOSE

Dear Senator DeSaulnier:

Consumers for Auto Reliability and Safety (CARS) is a national, award-winning non-profit auto safety and consumer advocacy organization dedicated to preventing motor vehicle-related fatalities, injuries and economic losses. We write to express our opposition to SB 990 (Vargas), sponsored by Carfax, whose attempt last year to amend AB 1215 (Blumenfeld) with language virtually identical to SB 990 was rejected by the Senate Committee on Transportation and Housing.

CARS opposes SB 990 for the following reasons:

**SB 990 threatens to derail years of progress in implementing the
National Motor Vehicle Title Information System (NMVTIS) in California.**

As the *Sacramento Bee* editorialized in 2007 regarding the National Motor Vehicle Title Information System (NMVTIS) established at the U.S. Department of Justice, which is projected to save the American public up to \$11.3 billion a year by curbing auto theft, salvage fraud, vehicle identity theft and related crimes:

"California not only has the most vehicles of any state in the country, it has the most stolen vehicles. Five of the top 10 U.S. metropolitan areas for vehicle theft in 2006 were in California -- Stockton, Visalia-Porterville, Modesto, Sacramento-Arden-Arcade-Roseville and Fresno -- according to an April study by the National Insurance Crime Bureau.

California also is a dumping ground for bad cars. Since Hurricanes Katrina and Rita,

California has seen a 25 percent uptick in flood-damaged cars entering the state from the Gulf Coast...Others are "chop shop" cars that have been damaged, totaled or dismantled and rebuilt. Thieves and sellers of junk can bring cars sate to state and get valid new titles for them.

California stands to benefit the most from joining this network. Participation would be a boon to law enforcement in going after vehicle theft and fraud, and it would allow consumers to check a vehicle's current title, including odometer reading and damage history, before buying.

Until California gets on board, the state will continue to be an especially attractive place for auto thieves and fraudsters to operate. The state can do a lot better job of protecting consumers from unsafe, unreliable cars with tarnished histories."¹

AB 647 (Yamada)

In 2009, CARS sponsored AB 647 (Yamada), which passed unanimously in both houses and was signed into law by then-Governor Schwarzenegger, to require California's DMV to cease its exclusive contract with Polk/ Carfax that denied public access to NMVTIS. AB 647 also required the DMV to fully participate in NMVTIS, in accordance with the federal Anti-Car Theft Act.

AB 1215 (Blumenfield)

Despite the unanimous support in the California Legislature for AB 647, and its enactment and implementation by the DMV, Polk/Carfax has persisted in its attempts to derail progress toward fully implementing NMVTIS in California, including opposing AB 1215 (Blumenfield), and seeking a hostile amendment which was rejected last year by this Committee.

Full implementation of AB 1215 (Blumenfield) as enacted, without the hostile amendment, is the next logical step for California to take, in order to improve protection against vehicle theft, salvage fraud and related crimes.

Last year, with the active participation of Counsel for the Senate Transportation and Housing and Judiciary Committees, CARS, auto dealers, and other stakeholders reached a historic agreement, calling for enactment of landmark provisions in AB 1215 (Blumenfield), to require new and used car dealers in California to obtain vehicle history reports from the National Motor Vehicle Title Information System (NMVTIS). Those provisions also call for dealers to provide specific prominent warnings on used vehicles, to alert prospective used vehicle purchasers when the vehicles meet one of the following criteria:

- When the NMVTIS vehicle history report indicates that the vehicle is or has been a junk or salvage automobile
- When the vehicle has been reported as a junk or salvage automobile by a junk yard, salvage yard, or insurance carrier pursuant to 49 U.S.C. 30504
- When the certificate of title contains a brand, for example "junk," "salvage," "non-repairable,"

¹ "Consumers need car protection now, not in 2010." -- Sacramento Bee Editorial, July 17, 2007.

"flood," "rebuilt"

As enacted with widespread bi-partisan support, and signed by Governor Brown, AB1215 is a historic, first-in-the-nation law that has been widely hailed as a landmark achievement in improving protection for consumers. AB 1215 was supported by a broad-based coalition of international law enforcement organizations with members in the US, Canada and Mexico, the former head of the FBI's auto theft task force, state law enforcement officials, auto dealers, and consumer organizations.

When it takes full effect in July, AB 1215 will help curb auto theft, salvage and rebuilt wreck frauds in California. It will also help ensure that NMVTIS fulfills its potential for benefiting the American public. According to a cost-benefit analysis commissioned by the U.S. Department of Justice, curbing frauds involving salvage vehicles, auto theft, and related crimes, and fulfilling the potential of NMVTIS, will save the American public between \$4.3 billion and \$11.7 billion annually. As the nation's largest auto market, and also the state that -- based on more recent data -- now has the dubious distinction of having 8 of out 10 of the nation's top auto theft "hot spots,"² California stands to gain the most.

The new law will provide crucial, potentially lifesaving information on the vehicles themselves, helping put consumers on more equal footing with dealers who are selling used vehicles that have been so severely damaged they were deemed to be a total loss.

Unlike competing private vehicle history database companies, including one headquartered in San Diego, Carfax has failed to become an approved provider of NMVTIS data. SB 990 appears to be yet another attempt by Carfax to tilt the playing field in its favor, instead of its becoming an approved provider, under contract with the American Association of Motor Vehicle Administrators, which operates the NVMTIS database established by the U.S. Department of Justice.

NMVTIS is the ONLY database that includes crucial, timely information about total loss vehicles from insurers, salvage pools, junkyards, and recyclers in all 50 states

NMVTIS is the ONLY vehicle history database that obtains reports from insurers, junk yards, and other junk / salvage reporting entities in all 50 states. By federal law, that data must be not only reported, but it must also be updated at least every 30 days, and as a practical matter, its is often reported daily.

Contrary to claims made by Polk / Carfax and Experian, private commercial databases such as Carfax and Autocheck too often contain gaping loopholes and fail to provide accurate, timely information to prospective car buyers. So far, they have failed to fully incorporate data provided by those entities to NMVTIS. In response to repeated requests by CARS for a list of insurers who report to Carfax regarding total loss vehicles, to date Carfax has named only a handful of insurers who represent only a fraction of the market.

The data provided to NMVTIS is the most vitally important data available for consumers, regarding damaged vehicles. That is because the vehicles are so severely damaged, they are a total loss. Those vehicles tend to be the most dangerous when they are rebuilt, because they have been damaged beyond repair. The rebuilders who cobble them together cut corners that leave them with serious structural damage. Or if they were submerged, they suffered such extensive flood damage they are

2 "Top Ten Auto Theft Hot Spots," National Insurance Crime Bureau report, issued in 2011.

rotting from the inside out. They are worth only a fraction of what an undamaged vehicle is worth. They tend to be basically rolling death traps. Making matters worse for consumers, the warranties on those vehicles are void, due to the extensive prior damage.

NMVTIS is more economical

Under the federal Anti-Car Theft Act, the data in NMVTIS must be provided to the public "for a reasonable cost," and the cost structure for approved NMVTIS data providers is subject to approval by the U.S. DOJ and AAMVA. Thus, NMVTIS is substantially less expensive to access than Polk / Carfax and Experian / Autocheck.

Carfax currently advertises on its website that it charges \$34.99 for a single VIN search, or 5 VINs for \$44.99. Autocheck currently advertises on its website that it charges \$29.99 for a single VIN and \$44.99 for unlimited VINs. For many car buyers, such costs are prohibitive. While SB 990 contemplates that dealers will obtain the history reports, those costs will inevitably be passed on to consumers in the form of higher prices.

In comparison, vehicle history data providers who have been approved by the U.S. Department of Justice and the American Association of Motor Vehicle Administrators advertise that they offer access to NMVTIS vehicle history reports to individual consumers for as little as \$3.50 for a single VIN, with some discounts available. The approved companies are also offering significant discounts to dealers, particularly those who purchase vehicle history reports in large volumes.

SB 990 Would Impose Significant Fiscal Costs on the State

As established by the federal Anti-Car Theft Act, and as implemented by the US DOJ and AAMVA, NMVTIS requires states to participate and to allow public access. All 50 states are now either already participating in NMVTIS or in the process of participating, including California -- and Illinois.

NMVTIS is structured so that the costs incurred by the DMV in order to participate in the national system are to be offset by a certain amount for each time NMVTIS data is pulled in California. Therefore, if SB 990 were to be enacted, it would decrease the offset, to whatever extent dealers and consumers accessed Carfax in lieu of NMVTIS. At a time when the state is faced with yet another looming budget crisis and cutting spending for essential services affecting children, disabled citizens, and other vulnerable people, the state can ill afford to absorb costs incurred due to a loss of offsets.

SB 990 would create confusion

The enactment of AB 1215 was accompanied by headlines across the state and many consumer news reporters covered the advent of the legislation. When the new law is fully implemented on July 1, there will be a major outreach effort aimed at educating the car buying public about the new law and NMVTIS.

It would be confusing for consumers to have another wave of publicity, either via news media, or in the form of advertising by Carfax, that would send mixed messages, contradicting earlier information they would have received only six months earlier.

SB 990 is unnecessary

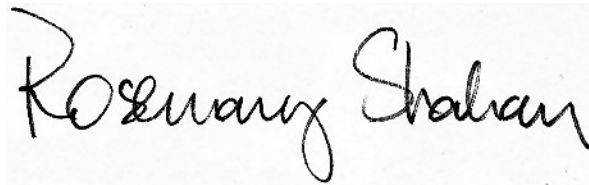
The sponsors of SB 990 claim that it is needed in order to provide "choice." This is absurd. There is nothing in the new law that limits or restricts access to Carfax and Experian or any other database. Consumers and dealers remain perfectly free to choose to check Carfax or Autocheck, if they wish to obtain additional data, provided they are willing to pay extra for it.

Furthermore, if Carfax wishes to compete with the various private NVMTIS data providers on a level playing field, all Carfax has to do is to join them and become a NMVTIS data provider.

For all the reasons stated above, we strongly urge a NO vote.

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

Sincerely,

A handwritten signature in black ink that reads "Rosemary Shahan". The signature is written in a cursive style with a large, prominent 'R' at the beginning.

Rosemary Shahan
President