

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

AB 1871 (Calderon)  
Version: June 20, 2022  
Hearing Date: June 28, 2022  
Fiscal: No  
Urgency: No  
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**SUBJECT**

Vehicle history reports

**DIGEST**

This bill requires every vehicle history report to clearly disclose the report provider's contact information for consumers to inquire about and request an investigation into vehicle history reports and any potential discrepancies.

**EXECUTIVE SUMMARY**

A vehicle history report is a collection of records that provide information about a used car to inform parties to a resale. Records or events in the vehicle's life get collected from thousands of sources and include information such as previous owners, accidents, mileage, and maintenance records. Major companies providing such reports to consumers include Carfax and Autocheck.

This bill is motivated by an incident where a consumer received an incorrect vehicle history report when looking to sell their vehicle. The report incorrectly stated the car had been involved in an out-of-state accident, despite the owner having purchased the vehicle brand new and it not being a part of any accident – or gone out-of-state for that matter. When the vehicle owner attempted to contact the vehicle history report provider, they could only do so electronically and received little follow up communication from the vehicle history report provider.

This bill requires every vehicle history report to disclose the vehicle history report provider's contact information for consumers to inquire about a report and to request the provider to research and address any potential discrepancies. The bill provides a loose timeline for compliance.

This bill is author sponsored. There is no known support. It is opposed by various industry groups, including Carfax and the National Insurance Crime Bureau.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Defines “vehicle” as a device by which a person or property may be propelled, moved, or drawn upon a highway. This excludes devices moved exclusively by human power and any used exclusively on stationary rails or tracks. (Veh. Code § 670.)
- 2) Defines “used vehicle” as a vehicle that has been sold, or has been registered with the Department of Motor Vehicles (DMV) (or its counterpart in other jurisdictions) as a demonstrator vehicle. (Veh. Code § 665.)
- 3) Requires dealers to first obtain a National Motor Vehicle Title Information System (NMVTIS) vehicle history report from a NMVTIS data provider for the vehicle identification number of a used vehicle before displaying or offering to sell the used vehicle at retail. (Veh. Code § 11713.26(a).)
- 4) Requires, if the NMVTIS vehicle history report for a used vehicle indicates that it is, or has been, a junk or salvage automobile, that the dealer post a statutorily-required warning on the vehicle while it is displayed for sale and provide a copy of the report to the purchaser upon request prior to sale. (Veh. Code § 11713.26 (b).)

This bill:

- 1) Defines “vehicle history report” as any written or electronic communication of vehicle history information made by a vehicle history report provider that is made available to consumers. “Vehicle history information” includes, but is not limited to, a vehicle’s accident or damage information; number of previous owners; information regarding service or maintenance history; and odometer reading.
- 2) Defines a “vehicle history report provider” as an entity that generates vehicle history reports from a vehicle history database that are provided directly to consumers for the purpose of selling or purchasing a vehicle. This does not include a dealer that obtains a report from a third party that is not an affiliate of the dealer and who then communicates the report without altering the vehicle history information therein.
- 3) Requires every vehicle history report to clearly and conspicuously disclose the vehicle history report provider’s contact information by which an owner can submit an inquiry regarding the vehicle history information contained in a vehicle history report, including a request for a vehicle history report provider to

research and address any potential discrepancies found within the vehicle history report.

- 4) Requires a vehicle history report provider to confirm receipt of a California resident's inquiry promptly, within three days of receipt. The confirmation shall include a means to obtain regular updates until the request is completed.
- 5) Requires a vehicle history report provider to use reasonable efforts to complete the inquiry within 14 days from receipt. If there is a delay that is beyond its reasonable control, the 14-day requirement is waived and the provider shall promptly notify the consumer of the delay no later than the 15th day from the date the inquiry was received and shall provide the requester weekly updates thereafter until the inquiry is completed.
- 6) Prohibits and makes void and unenforceable any attempted waiver of these provisions.
- 7) Clarifies that it does not relieve any party of its responsibilities under Section 11713.26 of the Vehicle Code, and any conflicts are resolved in favor of the latter.

### COMMENTS

#### 1. Vehicle history reports

Dealers are currently prohibited from displaying or offering to sell a used vehicle at retail without first obtaining a NMVTIS vehicle history report from a specified data provider for the vehicle identification number attached to that used vehicle. (Veh. Code § 11713.26(a).) There are specific requirements if the report indicates the car is or has been a junk or salvage automobile, as defined, for the dealer to post a warning on the vehicle and to provide to a purchaser a copy of the NMVTIS report upon request.

Vehicle history reports are useful documents that provide some transparency about a vehicle that might not be immediately apparent to a consumer or even a dealer. Major companies that provide these reports are Carfax and Auto Check, a company owned by Experian. Ultimately, the reports compile information from various sources regarding prior ownership, accidents, total mileage, and their maintenance and inspection history.

Carfax explains their process:

CARFAX receives information from more than 130,000 data sources including every U.S. and Canadian provincial motor vehicle agency plus many auto auctions, fire and police departments, collision repair facilities, fleet management and rental agencies, and more.

CARFAX Vehicle History Reports™ are available on all used cars and light trucks from model year 1981 or later. Using the unique 17-character vehicle identification number (VIN), a CARFAX Report is instantly generated from our database of over 28 billion records.

Every CARFAX Report contains information that can impact a consumer's decision about a used vehicle. Some types of information that a CARFAX Report may include are:

- Accident and damage indicators, such as airbag deployments
- Point of impact and a severity scale for damage events
- Title information, including salvaged or junked titles
- Flood damage history
- Total loss accident history
- Odometer readings
- Lemon history
- Number of owners
- State emissions inspection results
- Service records
- Vehicle use (taxi, rental, lease, etc.)<sup>1</sup>

Ultimately, their utility is tied to their accuracy and thoroughness. However, there are no specific requirements about the transparency of vehicle history reports being used in the market. This lack of transparency can cause issues where information is disputed by the owner and where otherwise faulty information is included.

The author argues that incorrect information can “significantly reduce a vehicle's value, hindering the ability for that vehicle to be sold.” The author argues there is a real problem here for consumers:

[N]umerous stories detail the difficulty these vehicle owners have faced when trying to contact vehicle history report providers seeking to fix an incorrect vehicle history report and restore their vehicle's value.

Given the important role vehicle history reports serve when seeking to sell a vehicle, it is imperative they are correct. It is also essential to be able to locate the source of the information contained within a vehicle history report, making it easier to correct any misinformation.

Bolstering the anecdote that motivated this bill, media reports of similar issues have also been found:

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<sup>1</sup> About CARFAX, CARFAX, <https://www.carfax.com/company/about>. All internet citations are current as of May 17, 2022.

After looking up the value of his 2019 Volkswagen Jetta, John Carr said he expected to get at least \$16,000 for the car when he set out to trade it in. He said the first dealership couldn't come close. "He said I couldn't even give you \$200 right now for the car," Carr recalled. The dealership pointed to a CARFAX report for Carr's vehicle showing it was a total loss. . . .

Carr bought the vehicle brand new. It had one owner – him. He said it's never been in an accident. Carr went to CARFAX with his vehicle maintenance records and a letter from his insurance company. CARFAX removed the total loss report and made two other corrections: removing a service contract that Carr didn't have and correcting the mileage.

However, CARFAX wouldn't budge on one of the reports – listing moderate to severe damage. . . . There was an August 3, 2020 date listed, but no other information. "Can you tell me who reported this to you so I can pursue it from another angle? They wouldn't give me any information at all," said Carr. CARFAX told NBC 5 Responds the damage report was verified and that it receives records from more than 113,000 data sources. Some do not authorize CARFAX to release their identities.<sup>2</sup>

Another story out of Los Angeles details a similar incident:

One man said Carfax and Autocheck.com both reported his car was damaged, costing him thousands of dollars in value. But his car was never damaged or in a crash. . . . Regardless, there it was on the Carfax report: damage was reported in April of 2019 to the front passengers' side. Autocheck had reported the same. . . . Neither Carfax nor Autocheck, a company owned by Experian, would share who reported the car as having been damaged or who paid for the fix, but initially both asserted their information was correct.<sup>3</sup>

## 2. Creating more transparency in vehicle history reporting

This bill seeks to address these issues by requiring every vehicle history report to clearly and conspicuously disclose the vehicle history report provider's contact information by which an owner can submit an inquiry regarding the vehicle history information contained in a vehicle history report, including a request for a vehicle

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<sup>2</sup> Diana Zoga, *How to Correct Your Vehicle History Report* (August 3, 2021) NBC 5 News, <https://www.nbcdfw.com/news/nbc-5-responds/nbc-5-responds-how-to-correct-your-vehicle-history-report/2706097/>.

<sup>3</sup> Randy Mac, *What to Do When Carfax Reports a Crash on Your Record That Never Happened* (November 20, 2019) NBC Los Angeles, <https://www.nbcalosangeles.com/investigations/randy-responds/carfax-experian-accident-reported-wrong-incorrect-history-help/2225818/>.

history report provider to research and address any potential discrepancies found within the vehicle history report.

This ensures that at least there is a clear process for consumers to submit challenges to potentially inaccurate information in their vehicle's history report.

Providers must confirm receipt of an inquiry from a California resident within three days of receipt. This must include a means for the consumer to obtain regular updates until the request is completed.

From there, the vehicle history report provider must use "reasonable efforts" to complete the inquiry within 14 days. However, this timeline is waived if there is a delay that is "beyond the reasonable control" of the provider. In such circumstances, the provider must promptly notify the consumer of the delay no later than the 15th day and provide the requester weekly updates thereafter until the inquiry is completed.

According to the author:

There are numerous stories of vehicle owners who, when looking to sell their vehicle, find their vehicle's history report contains incorrect information. This misinformation devalues their vehicle and serves as a significant impediment to selling their vehicle for fair market value. AB 1871 seeks to codify a resolution process for consumers by requiring vehicle history report providers detail clearly and conspicuously on their vehicle history reports how consumers' inquiries can be made, and requires vehicle history report providers to respond to such inquiries within 14 days.

There is opposition from various industry groups, including Carfax. But the letters submitted all focus on a provision in a previous version of the bill that required the disclosure of the sources of the information in these vehicle history reports.

### SUPPORT

None known

### OPPOSITION

Carfax Inc.  
The Lifetime Value Co.  
National Insurance Crime Bureau  
S&P Global Mobility

**RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation:

AB 1215 (Blumenfield, Ch. 329, Stats. 2011) prohibited a dealer from displaying or offering for sale at retail a used vehicle unless the dealer first obtains a report on the vehicle from the NMVTIS. If the NMVTIS report indicates that the vehicle is or has been a junk or salvage automobile, or the vehicle has been reported as such by a junk or a salvage yard, or an insurance carrier, or the certificate of title contains a brand, the dealer is required to do certain things, including post a disclosure, as provided.

SB 46 (Polanco, Ch. 127, Stats. 2001) established a voluntary electronic vehicle registration (EVR) program by which vehicle dealers may enter into contracts to act as partners with the DMV for vehicle titling and registration purposes.

**PRIOR VOTES:**

Assembly Floor (Ayes 55, Noes 1)

Assembly Judiciary Committee (Ayes 9, Noes 0)

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