

Tuesday September 4, 2012

Governor Jerry Brown  
California State Capitol  
Sacramento, CA 95814

Re: Supporting AB 1447

Dear Governor Brown:

We write to express support, on behalf of our low-income clients, for the enactment of AB 1447. The National Consumer Law Center (NCLC) is a nonprofit advocacy organization that seeks to build economic security and family wealth for low-income and other economically disadvantaged Americans. We promote access to quality financial services and protect family assets from unfair and exploitive transactions that wipe out resources and undermine self-sufficiency. We have a special interest in ensuring that working families can get and keep a reliable car at fair terms and have started a project, Working Cars for Working Families, to focus on these issues.

The legislation before you, AB 1447, would address some of the documented problems in the “Buy Here Pay Here” (BHPH) industry. It makes vehicle sales more transparent, encourages fair dealing, and aids in the protections of buyers privacy.

It is our understanding that the some dealers oppose AB 1447 on the grounds that it would unconstitutionally violate the right of these entities to equal protection under the law. Presumably they are troubled by the warranty requirements for BHPH dealers. Such concerns rest on the mistaken belief that government may not rationally apply different sets of rules to businesses which are organized and operated in different ways or must address all issues in a particular industry at once. This is not the case. Government may draw rational distinctions between different segments of an industry and “reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind,” *Williamson v. Lee Optical Co.*, 348 U.S. 483, 489 (1955).

While we see abusive practices at all types of dealerships, BHPH dealerships, because of their self-financing business model, do not face some of the same restraints on bad practices that other dealerships do. Lenders’ restrictions on loan to value ratios, permissible add-ons, and

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other underwriting guidelines, while no substitute for effective consumer protection, do sometimes protect consumer interests that align with lenders' interests. BHPH dealerships, operating with self-financing, structure their sales and financing transactions differently. The federal government and other regulatory bodies have found a different regulatory scheme useful in regulating the distinct business model employed by BHPH dealerships. Recognizing the differences in the business models of BHPH and other dealers and employing different rules to move each towards dealing transparently, honestly, and fairly with consumers would not violate BHPH dealers' rights to equal protection under the law.

AB 1447 is a significant step towards creating a fair market for the sale and financing of cars and we ask that you sign it into law. 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.

Sincerely,

John W. Van Alst  
Staff Attorney