

BILL ANALYSIS

SENATE TRANSPORTATION & HOUSING COMMITTEE
SENATOR MARK DESAULNIER, CHAIRMAN

BILL NO: SB 750
AUTHOR: Hernandez
VERSION: 2/18/11
FISCAL: no

Analysis by: Carrie Cornwell
Hearing date: May 10, 2011

SUBJECT:

Motor vehicle keys

DESCRIPTION:

This bill allows BMW to continue providing replacement keys for its vehicles, rather than providing information to locksmiths to produce replacement keys.

ANALYSIS:

SB 1542 (Migden), Chapter 433, Statutes of 2006, requires that a manufacturer of motor vehicles sold or leased in California beginning in 2008 provide a registered owner of a vehicle, though a registered locksmith, with the information the locksmith needs to produce a replacement key or other functionally similar device to enable the registered owner to enter, start, and operate his or her vehicle. The law includes various security measures, including a requirement that the locksmith already be registered with the manufacturer, a process for the locksmith to verify the identity of the vehicle's registered owner, and a requirement that the locksmith destroy the information once he or she has produced the replacement key or functionally similar device.

This provision of law does not apply to:

A manufacturer of a make of vehicles that sold less than 2,500 vehicles in California in the prior calendar year. This includes Rolls Royce, Maserati, Ferrari, and over a dozen other makes of automobiles.

Until January 1, 2013, a vehicle line of a motor vehicle manufacturer that sold between 2,500 and 5,000 vehicles (i.e., Saab).

Until January 1, 2013, a vehicle line of a motor vehicle manufacturer that on January 1, 2006 did not provide for the production of replacement keys or similar devices by anyone other than the vehicle manufacturer itself, provided that the manufacturer operates a request line available at all times through which a replacement key could be furnished within one day or via the next overnight delivery at the request of a registered owner or registered owner's family member. (This provision was included in SB 1542 to address the system BMW uses to provide replacement keys to registered owners of its vehicles).

This bill deletes the January 1, 2013 sunset date on the provision allowing a manufacturer with a system in place by 2006 to furnish a key itself rather than provide information to a locksmith to make a replacement key. This would in effect allow BMW a permanent exemption from the system that allows locksmiths to produce replacement vehicle keys.

COMMENTS:

1.Purpose . The sponsor of this bill, BMW, reports that due to the difficulty of reproducing its more sophisticated keys and the need for international security of its vehicles, it sought and received, subject to a five-year sunset, an alternative approach (described in the third bullet above) to the general provisions of SB 1542. Under this special provision, an automobile manufacturer must do the following:

Operate a 24/7 telephone or electronic request service for lost or misplaced keys to registered owners of a vehicle or the owner's family members.

Produce a replacement key or functionally similar device that allows the registered owner of a vehicle or family member to enter, start, and operate the vehicle.

Deliver the key to the registered owner of the vehicle or family member at a reasonable cost within one day of the request or via the next overnight delivery.

According to BMW, the sunset provision of January 1, 2013 allowed automobile manufacturers availing themselves of this provision to determine if additional technology could be developed for the same level of security while accommodating customer needs. To date, BMW reports that it has found the current 24/7 process meets the customer's needs for lost and misplaced keys and that no additional technology has been developed that can better deliver those services.

Since the effective date of SB 1542 on January 1, 2008, BMW has received approximately 4,400 lost key requests through its customer service process. According to BMW representatives, in all but one instance the requested replacement key was delivered to the vehicle owner within 24 hours or via the next overnight delivery. BMW's representatives state that the manufacturer has received no owner complaints concerning BMW's key replacement process.

1.Arguments in opposition . The Automobile Club of Southern California and AAA Northern California (the Auto Clubs), the sponsors SB 1542 in 2006, oppose this bill because it would weaken the consumer protections that SB 1542 created and do so solely to benefit a foreign special interest.

The Auto Clubs sponsored SB 1542 in response to their membership becoming increasingly frustrated with the difficulty and expense of getting a replacement when a key was lost, stolen, broken, or defective. As keys have incorporated new technologies, making a replacement key requires coding information that only the manufacturer can provide. Manufacturers did not want to release this key code information, but SB 1542 created a system through which manufacturers could safely do so. The Auto Clubs note that BMW has had five years to comply with the key replacement system the Legislature created in 2006 and that there is no reason to continue to exempt BMW from this system.

2. The sunset date in SB 1542 . The proponents and the opponents disagree on why the sunset that this bill repeals was included in SB 1542. The provision with the relevant sunset allows auto manufacturers that were the sole producers of keys for their vehicles in 2006 to produce and deliver overnight replacement keys for their vehicles, rather than to use the locksmith system created in SB 1542. Only BMW was eligible to avail itself of this five-year alternative system.

The proponents of this bill assert that the sunset was included so that BMW could determine if additional technology could be developed to achieve the same level of security while accommodating customer needs. In contrast, the Auto Clubs contend that the sunset date was included to give BMW time to bring its system into compliance with the general provisions of SB 1542.

This alternative provision with its five-year sunset was added to SB 1542 after it had passed this committee and while it was awaiting hearing in the Senate Judiciary Committee. That committee's analysis of SB 1542 notes that the provision "would allow manufacturers currently using the BMW-model to keep their current models while allowing them sufficient time to convert their designs?.eventually providing equal access rights to all purchasers of late model vehicles." Thus, it supports the contention the Auto Clubs make as to the reason behind the 2013 sunset date.

POSITIONS: (Communicated to the Committee before noon on
Wednesday, May 4,
2011)

SUPPORT: BMW Group (sponsor)

OPPOSED: AAA Northern California
Automobile Club of Southern California
California Locksmiths Association
one individual (from Florida)