

# CALIFORNIA HIGHWAY PATROL

## GENERAL ORDER 100.74

REVISED OCTOBER 2018

### DEALER RESPONSIBILITIES AND VIOLATIONS

1. PURPOSE. The purpose of this order is to provide policy, guidelines, and procedures for the investigation and enforcement of statutes pertaining to vehicle dealer responsibility.

2. POLICY. Enforcement of California Vehicle Code (CVC) Section 24007 shall be limited to investigation and prosecution on a criminal complaint basis. Investigations shall be utilized to determine the validity of the allegation and establish facts necessary for the prosecution of dealers.

a. Complaints against dealers alleging violations of CVC Sections 28050.5, 28051, and 28052 shall be referred to the Department of Motor Vehicles (DMV), Investigations Division. Filing of administrative actions against dealer licenses for those violations is at the discretion of the DMV. A CHP 348, Initial Complaint of Dealer's Responsibility, (Annex A), shall not be completed for these allegations.

b. Individuals who wish to file a complaint may do so at any Area office. If necessary, Area personnel shall provide assistance in completing the CHP 348.

(1) No investigation shall be initiated until the complainant completes and signs the CHP 348. Alleged violations shall be promptly and thoroughly investigated.

(2) Complaints shall be investigated only after a dealer has refused to correct the alleged safety equipment-related defects, or when the selling dealer refuses to install a required pollution control device.

(3) Departmental personnel shall not become involved in arbitrating settlements, assisting complainants in seeking the return of money, returning vehicles, or obtaining other adjustments in order to resolve complaints.

(4) Equipment complaints involving sales of vehicles between private parties shall not be investigated except those involving pollution control devices. Pollution control device complaints shall be investigated for possible prosecution against the seller, and to assist the buyer in applying for a transfer of registration within the statutory 10-day period.

c. Complaints which allege dealer responsibility violations regarding safety equipment-related items, such as passenger restraints, brakes, or tires, shall be carefully evaluated prior to the investigation to ensure vehicle mileage and/or elapsed time would not prevent establishment of the evidence of a crime.

d. Area commanders should contact the local District Attorney's Office and establish reasonable purchase elapse times and/or vehicle mileage operation criteria applicable to dealer responsibility violations.

e. Complaints of other types of non-safety-related mechanical problems, such as engine, transmission, etc., will not warrant an investigation. However, an explanation of the civil recourse available to owners of such vehicles shall be offered.

### 3. PROCEDURE.

#### a. Acceptance of Complaints.

(1) Individuals submitting complaints shall complete a CHP 348.

(2) Individuals shall be advised when completing a CHP 348 that they must be available for contact during the course of the investigation and that if they become unavailable, the complaint may be jeopardized.

(3) When the CHP 348 is used to record complaints of alleged violations of Section 24007(b) CVC and the complaint is against a person other than a dealer, the words "Dealer's Responsibility" on the form title shall be crossed out and "Section 24007(b) CVC" inserted. (Example: Initial Complaint of Section 24007(b) CVC, line out "dealer" and insert "subject" in boxes 9, 16, 17, and 18. Refer to Annex B.)

(4) Areas receiving a completed CHP 348 for an alleged violation within their geographic area of responsibility shall investigate the complaint to conclusion.

(5) Areas receiving a completed CHP 348 for an alleged violation not within their geographical area of responsibility shall forward the form to the appropriate Area. Complainants shall be advised of this action.

(6) Commercial Vehicle Section shall be responsible for directing complaints received at headquarters to the proper Area office for investigation.

(7) Complaints received by the DMV and their field offices will be referred to the California Highway Patrol for investigation.

b. Investigation of Complaints.

(1) Investigations shall be documented on a CHP 216, Arrest-Investigation Report.

(2) In those cases where the vehicle or complainant is not in the investigating officer's Area, assistance from the Area office in the geographically responsible Area where the vehicle is located, or where the complainant resides, may be requested.

(3) Should an investigation involve a dealer or salesperson, the dealer's business license number and/or the salesperson's license number shall be obtained.

c. Termination of Investigations.

(1) If a complainant indicates no further interest in pursuing the complaint, the investigation shall be terminated. A closing statement from the officer shall indicate the reason for the termination.

(2) If the complainant is unavailable during the investigation, and a reasonable effort fails to establish contact with the complainant, the investigation shall be terminated. A closing statement from the officer shall indicate the reason for the termination.

4. DEALER'S RESPONSIBILITY - SECTION 24007 OF THE CALIFORNIA VEHICLE CODE.

a. Investigation reports of alleged violations of Section 24007 CVC shall include the following items:

(1) Investigating officer's inspection findings for the alleged violations on the vehicle.

(2) Inspection findings performed by any of the following:

(a) Official lamp and brake stations.

- (b) Official emission control inspection stations.
  - (c) Commercial officers.
  - (d) Commercial Vehicle Inspection Specialists.
  - (e) Motor Carrier Specialists.
- (3) Date and serial number of purchase documents in complainant's possession.
- (4) Dealer's business license number.
- (5) Salesperson's license or temporary permit number.
- (6) Recommended action, if any, to be taken by DMV investigators upon receipt of the investigation report.

5. CLOSING STATEMENTS AND FINAL NOTIFICATIONS.

a. The CHP 216 shall include the results of the investigation in a closing statement indicating the complaint:

- (1) Is unfounded,
- (2) Is of a civil nature,
- (3) Is terminated by the complainant,
- (4) Is terminated due to the unavailability of the complainant, or
- (5) Is a substantiated violation; and
  - (a) A criminal complaint has been filed, or
  - (b) A criminal complaint was requested and subsequently denied by the city or district attorney's office.

OFFICE OF THE COMMISSIONER

ANNEXES A, B

OPI: 062

## ANNEX A

### CHP 348, INITIAL COMPLAINT OF DEALER'S RESPONSIBILITY

STATE OF CALIFORNIA DEPARTMENT OF CALIFORNIA HIGHWAY PATROL <b>INITIAL COMPLAINT OF DEALER'S RESPONSIBILITY</b> CHP 348 (Rev. 3-95) OPI 062					FILE NUMBER (TO BE COMPLETED BY CHP)  Use Current CHP Area File Format	
<b>NOTICE: Investigation conducted by the California Highway Patrol will be for the purpose of gathering evidence to support prosecutions of applicable laws; NOT for the purpose of arbitrating settlements or assisting complainants in obtaining the return of their money.</b>						
1. NAME OF COMPLAINANT		2. ADDRESS			3. PHONE NUMBER	
Joe Public		123 Resident Street, Sacramento, CA 94298			(916) 555-0000	
4. MAKE OF VEHICLE	5. MODEL	6. YEAR	7. LICENSE NUMBER	8. DATE OF PURCHASE		
Ford	F-250	1997	KA4993	08/08/2018		
9. NAME OF DEALER		10. ADDRESS			11. PHONE NUMBER	
Buy Here, Pay Here		123 Commercial Way, West Sacramento, CA 95605			(916) 555-1212	
12. NAME OF SALESPERSON				13. REPORT-OF-SALE NUMBER		
Johnny Sales				Use Contract or Bill of Sale Number Here		
14. <b>COMPLAINT (Cite item(s) not in compliance with vehicle code)</b>						
26706 CVC Windshield wipers inoperative. 27314(b) CVC Passenger side seat belt missing buckle assembly.						
15. WAS PURCHASER AWARE OF THE ABOVE DEFECTS AT TIME OF PURCHASE?				16. WAS AN AGREEMENT MADE WITH THE DEALER REGARDING CORRECTION OF DEFECTS?		
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
IF YES, DESCRIBE THE AGREEMENT:						
Dealer agreed to repair windshield wipers and seatbelt buckle assembly. Documented on due bill at time of sale. (copy attached)						
17. <b>EFFORTS MADE BY COMPLAINANT TO OBTAIN CORRECTION</b>						
DATE OF EACH CONTACT WITH THE DEALER	CONTACT WAS MADE BY (Phone, in person, letter, etc.)		DEALER'S REACTION TO COMPLAINT UPON EACH CONTACT			
08/15/2018	In person		Due bill and written agreement to repair both defects.			
08/19/2018	Phone		Dealer agreed to repair appointment on 08/23/2018.			
08/23/2018	In person		Dealer refused to repair wipers. Stated due bill was honored.			
08/27/2018	Certified letter outlining complaint sent to dealer with delivery confirmation		Unknown employee signed certified US Postal Service delivery confirmation on 08/31/2018.			
09/05/2018	Phone		Dealer refused further repairs and hung up on complainant.			
OTHER EFFORTS						
Complainant contacted Better Business Bureau and Bureau of Automotive Repair.						
18. <b>CHANGES/REPAIR MADE</b>						
IDENTIFY CHANGES/REPAIRS		BY WHOM (Dealer or Complainant)		DATE		
Passenger side seat belt buckle was repaired with used mismatched buckle.		Dealer		08/23/2018		

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## ANNEX A

### CHP 348, INITIAL COMPLAINT OF DEALER'S RESPONSIBILITY *(continued)*

19. PERSONS VERIFYING THAT ITEM(S) DID NOT MEET VEHICLE CODE SPECIFICATIONS AT TIME OF PURCHASE			
NAME	ADDRESS	PHONE NO.	
Certified State Test Center-Inspector Gadget	123 Government Way, Sacramento, CA 95605	(916) 555-3000	
20. STATEMENT OF UNDERSTANDING			
<p>a. I understand that the information given in this complaint may be used by the California Highway Patrol in an investigation for the purpose of gathering facts that will be submitted to the Office of the District Attorney for review and possible prosecution of the above dealer for violation of Section 24007 of the California Vehicle Code.</p> <p>b. I further understand that if a criminal complaint is issued, I and supporting witnesses may be subpoenaed into court to testify to knowledge of the facts.</p> <p>c. I make the foregoing statements as a part of my complaint with full knowledge of the consequences for wilfully making a false statement. <i>(Section 148 of the California Penal Code states as follows: "Every person who reports to any police officer, sheriff, district attorney, deputy sheriff, deputy district attorney, or member of the California Highway Patrol that a felony or misdemeanor has been committed, knowing such report to be false, is guilty of a misdemeanor").</i></p>			
SIGNATURE OF COMPLAINANT			DATE
			09/12/2018
21. CONTINUATION/ADDITIONAL COMMENTS SECTION <i>(Cite item number for each comment)</i>			
ITEM NO.	COMMENT		
1	Copy of dealer due bill		
2	Copy of dealer sales contract		
3	Copy of certified letter to dealer		
22. OFFICIAL RECEIVING COMPLAINT		23. I.D. NUMBER	24. LOCATION CODE
I.M. Watch		30306	098
26. OFFICIAL ASSIGNED TO INVESTIGATE COMPLAINT		27. I.D. NUMBER	28. LOCATION CODE
U.R. Paper		30305	098
			29. DATE
			09/17/2018
30. CHP DETERMINATION OF COMPLAINT <i>(CHP Use Only)</i>			
<input type="checkbox"/>	Complaint is unfounded	<input checked="" type="checkbox"/>	Adjudication by the court
<input type="checkbox"/>	Action by complainant was refused	<input type="checkbox"/>	Civil Action
<input type="checkbox"/>	Complaint refused by City/District Attorney	<input type="checkbox"/>	Other <i>(specify)</i>
COMMENTS			
Dealer cited for a violation of 24007(a)(1) CVC using complaint to be filed per Yolo County District Attorney's Office. Forwarded to Superior Court on 09/27/2018.			
SIGNATURE OF COMMANDER			DATE
			09/27/2018
31. MAILING INFORMATION			
<div style="border: 1px solid black; width: 100px; height: 100px; margin: auto;"></div> <p style="text-align: center; margin-top: 20px;">GIVE COMPLETE NAME AND ADDRESS TO WHICH CHP REPLY IS TO BE MAILED</p>			
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## ANNEX B

### CHP 348, INITIAL COMPLAINT OF SECTION 24007(b) CVC

STATE OF CALIFORNIA  
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

FILE NUMBER (TO BE COMPLETED BY CHP)

**INITIAL COMPLAINT OF DEALER'S RESPONSIBILITY**  
CHP 348 (Rev. 3-95) DPI 002 **SECTION 24007(b) CVC**

*NOTICE: Investigation conducted by the California Highway Patrol will be for the purpose of gathering evidence to support prosecutions of applicable laws; NOT for the purpose of arbitrating settlements or assisting complainants in obtaining the return of their money.*

1. NAME OF COMPLAINANT	2. ADDRESS	3. PHONE NUMBER
4. MAKE OF VEHICLE	5. MODEL	6. YEAR
	7. LICENSE NUMBER	8. DATE OF PURCHASE
9. NAME OF DEALER <b>SUBJECT</b>	10. ADDRESS	11. PHONE NUMBER
12. NAME OF SALESPERSON	13. REPORT-OF-SALE NUMBER	

14. **COMPLAINT (Cite item(s) not in compliance with vehicle code)**

SAMPLE

15. WAS PURCHASER AWARE OF THE ABOVE DEFECTS AT TIME OF PURCHASE?  
 Yes  No

16. WAS AN AGREEMENT MADE WITH THE DEALER REGARDING CORRECTION OF DEFECTS?  
 Yes  No **SUBJECT**

IF YES, DESCRIBE THE AGREEMENT:

17. **EFFORTS MADE BY COMPLAINANT TO OBTAIN CORRECTION**

DATE OF EACH CONTACT WITH THE DEALER	CONTACT WAS MADE BY (Phone, in person, letter, etc.)	DEALER'S REACTION TO COMPLAINT UPON EACH CONTACT
<b>SUBJECT</b>		<b>SUBJECT</b>
OTHER EFFORTS		

18. **CHANGES/REPAIR MADE**

IDENTIFY CHANGES/REPAIRS	BY WHOM (Dealer or Complainant)	DATE
	<b>SUBJECT</b>	

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