

No. 1983-8

AN ACT

SB 5

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, regulating repair, replacement and other activities relating to odometers by imposing both civil liability and criminal penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1103(a) of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

§ 1103. Application for certificate of title.

(a) Contents of application.—Application for a certificate of title shall be made upon a form prescribed and furnished by the department and shall contain a full description of the vehicle, the vehicle identification number, *odometer reading*, date of purchase, the actual or bona fide name and address of the owner, a statement of the title of applicant, together with any other information or documents the department requires to identify the vehicle and to enable the department to determine whether the owner is entitled to a certificate of title and the amount and description of any security interests in the vehicle.

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Section 2. Section 1105 of Title 75 is amended by adding a subsection to read:

§ 1105. Issuance of certificate of title.

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(c) *Title transfer odometer readings.*—*The department shall compare the odometer reading of the vehicle each time a certificate of title is transferred and ascertain the reported mileage against the most recent previously reported mileage for the vehicle.*

Section 3. Section 1106(a) of Title 75 is amended to read:

§ 1106. Content and effect of certificate of title.

(a) Vehicle identification and encumbrances.—A certificate of title shall contain such description and other evidence of identification of the vehicle for which it is issued as the department may deem necessary *and the odometer reading*, together with a statement of any liens or encumbrances including the names and addresses of the holder or holders of the liens or encumbrances.

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Section 4. Section 1112 of Title 75 is repealed.

Section 5. Chapter 71 of Title 75 is amended by adding a subchapter to read:

CHAPTER 71
VEHICLE THEFT AND RELATED PROVISIONS

* * *

SUBCHAPTER D
TAMPERING WITH ODOMETERS

Sec.

- 7131. Definitions.
- 7132. Prohibited activities relating to odometers.
- 7133. Permissible activities relating to odometers.
- 7134. Odometer disclosure requirements.
- 7135. Odometer mileage statement retention.
- 7136. Conspiracy to violate odometer requirements.
- 7137. Violation of Unfair Trade Practices and Consumer Protection Law.
- 7138. Civil liability.
- 7139. Penalties.

§ 7131. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Dealer.” A person engaged in the business of buying, selling or exchanging motor vehicles.

“Motor vehicle auction.” A sale transaction conducted by means of oral or written exchanges between an auctioneer and the members of the audience, which exchanges consist of a series of invitations for offers for the purchase of motor vehicles made by the auctioneer and offers to purchase made by members of the audience and culminate in the acceptance by the auctioneer of the highest or most favorable offer made by a member of the participating audience.

“Motor vehicle auction company.” A person who, as a part of that person’s business, arranges, manages, sponsors, advertises or carries out motor vehicle auctions.

“Odometer.” An instrument for measuring and recording the actual distance a motor vehicle travels while in operation. The term does not include any auxiliary odometer designed to be reset by the operator of the motor vehicle for the purpose of recording mileage on trips.

“Person.” A natural person, association, partnership, corporation or trust.

“Repair and replacement.” To restore to a sound working condition by replacing the odometer or any part thereof or by correcting what is inoperative.

“Transfer.” To change ownership by purchase, gift or any other means.

“Transferee.” A person to whom the ownership in a motor vehicle is transferred by purchase, gift or any means other than by creation of a security interest.

“Transferor.” A person who transfers his ownership in a motor vehicle by sale, gift or any means other than by creation of a security interest.

§ 7132. Prohibited activities relating to odometers.

(a) Devices causing improper odometer reading.—No person shall advertise for sale, sell, use or install, or cause to be installed, any device which causes an odometer to register any mileage other than the true mileage driven which is that mileage driven by the vehicle as registered by the odometer within the manufacturer’s designed tolerance.

(b) Change of odometer reading.—No person shall disconnect, reset or alter, or cause to be disconnected, reset or altered, the odometer of any motor vehicle with intent to change the number of miles indicated on the odometer.

(c) Operation with disconnected or nonfunctional odometer.—No person shall, with intent to defraud, operate a motor vehicle on any street or highway knowing that the odometer of that vehicle is disconnected or nonfunctional.

§ 7133. Permissible activities relating to odometers.

(a) General rule.—Nothing in this subchapter prevents the service, repair or replacement of an odometer if the mileage indicated remains the same as before the service, repair or replacement. Where the odometer is incapable of registering the same mileage as before the service, repair or replacement, the odometer shall be adjusted to read zero and a notice in writing shall be attached to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced.

(b) Prohibitions.—

(1) No person shall fail to adjust an odometer or affix a notice regarding the adjustment as required pursuant to subsection (a).

(2) No person shall, with intent to defraud, remove or alter any notice affixed to a motor vehicle pursuant to subsection (a).

§ 7134. Odometer disclosure requirements.

(a) Odometer mileage statement.—Prior to or simultaneously with the execution of any ownership transfer document relating to a motor vehicle, each transferor of a motor vehicle shall furnish to the transferee a written statement signed by the transferor containing the following information:

(1) The odometer reading at the time of transfer.

(2) The date of transfer.

(3) The transferor’s name and current address.

(4) The transferee’s name and current address.

(5) The identity of the vehicle, including its make; year and body type and its complete vehicle identification number.

(6) (i) A certification by the transferor that, to the best of his knowledge, the odometer reading reflects the actual miles or kilometers the vehicle has been driven;

(ii) if the transferor knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit of 99,999 miles or kilometers, he shall include a statement to that effect;

or

(iii) if the transferor knows that the odometer reading differs from the number of miles or kilometers the vehicle has actually traveled and that the difference is greater than that caused by odometer calibration error, he shall include a statement that the odometer reading is not the actual mileage and should not be relied upon.

The transferee shall acknowledge receipt of the disclosure statement by signing it.

(b) Prohibitions.—

(1) No transferor shall violate any provision of this section or give a false statement to a transferee in making any disclosure required by this section.

(2) No transferee shall accept any written disclosure required by any provision of this section if the disclosure is incomplete.

(c) Auction sales.—With regard to any motor vehicle whose ownership is transferred through a motor vehicle auction sales transaction, the motor vehicle auction company conducting the sale shall receive from the transferor a copy of the odometer mileage statement which the transferor is required by subsection (a) to provide to the transferee.

(d) Other acceptable disclosure forms.—Either an odometer mileage statement, approved by the United States Secretary of Transportation pursuant to Public Law 94-364, Title IV, § 406, July 14, 1976 (90 Stat. 983, 15 U.S.C. 1988(a)), or a Pennsylvania ownership transfer document, approved by the department, which includes the odometer disclosure information as prescribed in subsection (a) shall be deemed to satisfy all the requirements for the content and form of odometer mileage statements. Nothing in this subsection shall exempt a dealer or motor vehicle auction company from the provisions of section 7135 (relating to odometer mileage statement retention).

(e) Exemptions.—A transfer of any of the following types of motor vehicles is exempt from the requirements of this section:

(1) A motor vehicle having a registered gross weight of more than 16,000 pounds.

(2) A motor vehicle 25 years or older.

(3) An implement of husbandry.

(4) Special mobile equipment.

§ 7135. Odometer mileage statement retention.

(a) General rule.—Each dealer or motor vehicle auction company who is required by this subchapter to execute or receive an odometer mileage statement shall retain for four years each odometer mileage statement which he receives. He shall also retain for four years a photostat, carbon or other facsimile copy of each odometer mileage statement which he issues. The dealer shall retain each odometer mileage statement at the primary place of business in an order that is appropriate to his business requirements and that permits systematic retrieval. The statement may be reproduced as long as no information or identifying marks such as signatures are lost in the reproduction.

(b) Inspection.—Each dealer or motor vehicle auction company shall make any odometer mileage statement which it has retained available for

inspection and copying by law enforcement authorities, the Attorney General or his designee and any district attorney or his designee.

§ 7136. Conspiracy to violate odometer requirements.

No person shall conspire with any other person to violate section 7132 (relating to prohibited activities relating to odometers), 7133 (relating to permissible activities relating to odometers) or 7134 (relating to odometer disclosure requirements).

§ 7137. Violation of Unfair Trade Practices and Consumer Protection Law.

A violation of any provision of this subchapter or regulation promulgated thereunder constitutes "unfair methods of competition" and "unfair or deceptive acts or practices" within the meaning of section 2(4) of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.

§ 7138. Civil liability.

(a) General rule.—A person who, with intent to defraud, violates any requirement imposed under this subchapter shall be liable in an amount equal to the sum of three times the amount of actual damages sustained or \$1,500, whichever is the greater, and, in the case of any successful action to enforce this liability, the costs of the action together with reasonable attorney fees as determined by the court.

(b) Statute of limitations.—An action to enforce any liability created under subsection (a) may be brought by any person within two years from the date on which the liability arises.

§ 7139. Penalties.

(a) Criminal penalty.—A person who knowingly and willfully commits any act or causes to be done any act that violates any provision of this subchapter or knowingly and willfully omits to do any act or causes to be omitted any act that is required by any such provision commits a misdemeanor of the third degree for the first offense and a misdemeanor of the first degree for a subsequent offense.

(b) Corporate liability for penalty.—Any individual, director, officer or agent of a corporation who knowingly and willfully authorizes, orders or performs any of the acts or practices constituting in whole or in part a violation of any provision of this subchapter commits a misdemeanor of the third degree for the first offense and a misdemeanor of the first degree for a subsequent offense under this section without regard to any penalties to which that corporation may be subject under subsection (a).

Section 6. This act shall take effect in 60 days.

APPROVED—The 14th day of June, A. D. 1983.

DICK THORNBURGH