

/* Here is the full text of the Motor Vehicle Information and Costs Savings Act regarding odometer fraud. */

15 United States Code

Section 1981- Findings

The Congress hereby finds that purchases, when buying motor vehicles, rely heavily on the odometer reading as an index of the condition and value of such vehicle; that purchasers are entitled to rely on the odometer reading as an accurate reflection of the mileage actually traveled by the vehicle; that an accurate indication of the mileage traveled by a motor vehicle assists the purchaser in determining its safety and reliability; and that motor vehicles move in the current of interstate and foreign commerce or affect such commerce. It is therefore the purpose of this title to prohibit tampering with odometers on motor vehicles and to establish certain safeguards for the protection of purchasers with respect to the sale of motor vehicles having altered or reset odometers.

/* The purpose of all of this is that the U.S. Congress cannot act generally in respect to whatever it might want. There must be a constitutional basis for the power. The commerce clause is the most usual means for Congress to make general business regulations. */

Section 1982- Defined terms

As used in this title--

(1) The term "dealer" means any person who has sold 5 or more motor vehicles in the past 12 months to purchasers who in good faith purchase such vehicles for purposes other than resale.

/* This definition excludes those who wholesale only; they are covered by Section (2). */

(2) The term "distributor" means any person who has sold 5 or more vehicles in the past 12 months for resale.

(3) The term "odometer" means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation; but shall not include any auxiliary odometer designed to be reset by the operator of the motor vehicle of recording mileage on trips.

(4) The term "repair and replacement" means to restore to a sound working condition by replacing the odometer or any part thereof or by correcting what is inoperative.

(5) The term "transfer" means to change ownership by purchase, gift or any other means.

(6) the term "title" means the certificate of title or other

document issued by the Stated indicating ownership.

(7) The term "leased motor vehicle" means any motor vehicle which is leased to a person for a term of at least 4 months by a lessor who has leased 5 or more vehicles in the past 12 months.

(8) The term "auction company" means any person who takes possession (whether through consignment or bailment or through any other arrangement) of a motor vehicle owned by another person for selling such motor vehicles at an auction.

Section 1983- Devices causing odometer to register than true mileage driven prohibited

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. For purposes of this section, the true mileage driven is that mileage driven by the vehicle as registered by the odometer with the manufacturer's designed tolerance.

Section 1984- Change of mileage indicated on odometer prohibited

No person shall disconnect, rest, 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 thereon.

Section 1985- Operation of motor vehicles with knowledge of disconnected or nonfunctional odometer prohibited

No person shall, with intent to defraud, operate a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or non-functional.

Section 1986- Conspiracy to violate odometer requirements

No person shall conspire with any other person to violate sections 1983, 1984, 1985, 1987 and 1988.

Section 1987- Lawful service and repair

(a) Nothing in this title shall prevent the service, repair, or replacement of an odometer, provide the mileage indicated thereon remains the same as before the service, repair or replacement.

Where the odometer is incapable of registering the same mileage as before such 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)(1) No person shall fail to adjust an odometer or affix a notice regarding such adjustment as required pursuant to subsection (a) of this section.

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

Section 1988. Disclosure requirements upon transfer of ownership of motor vehicle

(a) Promulgation of rules. /*This section gives the Secty. of FTC the right to make regulations.*/

(b) Violation of rules and giving false statements to transferees prohibited. No transferor shall violate any rules prescribed under this section or give a false statement to a transferee in making any disclosure required by such rule.

(c) Acceptance of incomplete written disclosure by transferees acquiring ownership for resale prohibited. No transferee, who, for purposes of resale, acquires ownership of a motor vehicle shall accept any written disclosure required by any rules prescribed under this section if such disclosure is incomplete.

(d)(1)(A) Any motor vehicle the ownership of which is transferred may not be licensed for use in any State unless the transferee, in submitting an application to a State for a title upon which such license will be issued, includes which such application the transferor's title and, if that title contains the space referred to in paragraph (2)(A)(iii), a statement, signed and dated by the transferor, of the mileage disclosure required under subsection (a).

(B) This paragraph shall not apply to any transfer of ownership of a motor vehicle which has not been licensed before the transfer.

(2)(A) Any motor vehicle the ownership of which is transferred may not be licensed for use in any State unless the title which is issued by the State to the transferee following such transfer--

(i) is set forth by means of a secure printing process (or other secure process);

(ii) indicates the mileage disclosure required to make under subsection (a); and

(iii) contains a space for the transferee to disclose (in the event of a future transfer) the mileage at the time of such future transfer and to sign and date such disclosure.

(B) The requirements of subparagraph (A) shall not be construed to require a State to verify, or preclude the State from verifying, the mileage information contained in the title.

(C) In the case of a transferor to whom title to a motor vehicle has been issued by any State and such title is, at the time of a

transfer of such motor vehicle, physically held by a lienholder, nothing in this subsection shall be construed to prohibit for purposes of the mileage disclosure requirements of this section the use of a written power of attorney (if otherwise permitted by State law) in a form, and under reasonable conditions, prescribed by rule by the Secretary before Feb. 1, 1989. The rule shall (i) ensure disclosure on the power of attorney document of the actual mileage by the person exercising the power of attorney in the space referred to in paragraph (2)(A)(iii). The rule, consistent with the purposes of this Act and the need to facilitate enforcement thereof, shall prescribe that the form issued by the State to the transferee in accordance with paragraph (2)(A)(i), shall prescribe that the person granted such power of attorney shall retain a copy of such power of attorney and shall submit the original back to the State with a copy of the title showing the restatement of the mileage, and may prescribe that the State retain the power of attorney and the copy of the title for an appropriate period or that the State adopt alternative measures consistent with the purposes of this title, taking into consideration costs to the State. The rule shall not require that a vehicle be titled in the State in which the power of attorney was issued. The provisions of Section 1990b and 1990c shall apply to any person to any person granting or granted such power of attorney.

(e)(1) In the case of any leased motor vehicle, the rules under subsection (a) shall require written disclosure regarding mileage to be made by the lessee to the lessor upon the lessor's transfer of ownership of the leased motor vehicle.

(2) Under such rules, the lessor of a leased motor vehicle shall provide written notice to the lessee regarding--

- (A) such mileage disclosure requirements, and
- (B) the penalties for failure to comply with them.

(3) The lessor shall retain the disclosures made by any lessee with respect to any motor vehicle under paragraph (1) for a period of at least 4 years following the date the lessor transfers that vehicle.

(4) For purposes of this section, if the lessor transfers ownership of an leased motor vehicle without obtaining possession of such vehicle, the lessor may, in making the disclosure required by subsection (a), indicate on the title the mileage disclosed by the lessee under paragraph (1) unless the lessor has reason to believe that such disclosure by the lessee does not reflect the actual mileage of the vehicle.

(f)(1) The requirements of subsections (d) and (e)(1) respecting the disclosure of motor vehicle mileage when motor vehicle are transferred or leased shall apply in a State unless the State has in effect alternate motor vehicle mileage disclosure requirements approved by the Secretary. The Secretary may promulgate regulations establishing procedures for the consideration and approval of such alternate requirements.

(2) The Secretary shall approve alternate motor vehicle mileage disclosure requirements submitted by a State unless the Secretary determines that such requirements are not consistent with the purpose of the disclosure required by subsection (9) or (e), as the case may be.

(g) IF any motor vehicle is sold at an auction, the auction company which conducts such auction shall establish and maintain for a period of at least 4 years following the date of such sale the following records:

(1) The name of the most recent owner of the motor vehicle (Other than the auction company) and the name of the buyer of the vehicle.

(2) The vehicle identification number of the motor vehicle required under title Vi of this act.

(3) The odometer reading on the date of which the auction company took possession of the motor vehicle.

Section 1989, Civil action to enforce liability for violations

(a) Any person who, with intent to defraud, violates any requirement imposed under this title shall be liable in an amount equal to the sum of--

(1) three times the amount of actual damages sustained or \$ 1,500, whichever is the greater; and

(2) in the case of any successful action to enforce the foregoing liability, the costs of the action together with reasonable attorney fees as determined by the court.

(b) An action to enforce any liability created under subsection (a) of this section may be brought in a United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the liability arises.

/* This section creates jurisdiction in federal courts. Most practitioners will agree that these actions are best brought in federal court.*/

/* The remainder of the act is in regards to State enforcement of the act.*/