



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

MAKE ODOMETER TAMPERING A FELONY

House Bill 4390 as passed by the House
Second Analysis (8-13-87)

RECEIVED

Sponsor: Rep. Nick Ciaramitaro
Committee: Consumers

SEP 14 1987

Mich. State Law Library

THE APPARENT PROBLEM:

According to the secretary of state, Michigan consumers lose as much as \$100 million each year when they purchase automobiles whose odometers have been illegally adjusted to register far fewer miles than the vehicles have actually been driven. This staggering loss takes two forms: purchase prices grossly in excess of what the autos ought to bring, and unexpected, major repair costs that should not, at the mileage indicated, have been necessary for years. Authorities in Pennsylvania say that odometers in 60 percent of the vehicles at auctions for dealers have been set back. A survey conducted by the National Highway Traffic Safety Administration found that 93 percent of leased vehicles entering the retail market in one year had falsified odometers. The Bureau of Automotive Regulation in the secretary of state's office has estimated that odometers in 40 percent of the used vehicles sold in Michigan have altered mileage readings. The bureau routinely examines used vehicle transactions in Michigan, and investigates further when titles or other documents (particularly from Kentucky and Indiana) appear to have been tampered with. According to the secretary of state, the bureau is now notifying about 500 consumers a month that they have purchased vehicles with altered odometers.

Although tampering with an odometer is a crime under federal and state laws, the profits (thousands of dollars on a late-model car) are well worth the risk of such modest penalties as that imposed in Michigan: a fine of \$100 or imprisonment for no more than 90 days. In the belief that stiffer penalties would reduce tampering, and that the states should coordinate their reporting requirements with those of the federal government to make detection of such crimes easier, the secretary of state has proposed several amendments to the Michigan Vehicle Code.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Vehicle Code to make odometer tampering a felony and to require odometer mileage statements on certificates of title for motor vehicles.

Felony provisions. Under present law, tampering with an odometer is a misdemeanor. The bill would specify that anyone who altered or disconnected an odometer or who sold or installed a device that caused an odometer to register a false reading would be guilty of a felony. If an odometer required service that made it incapable of registering actual mileage, it would have to be set at zero and a note would have to be attached to the left door frame of the vehicle by the owner stating the mileage prior to the repair and the date of the repair. Anyone who removed such a notice also would be guilty of a felony.

Civil suits. The bill would make it possible for any buyer of a motor vehicle whose odometer had been illegally altered to bring a civil suit against any prior seller within two years from the date on which the liability arose (which generally means from the date the act, in this case, odometer tampering, was committed). A dealer or other

seller who had an action brought against him or her could join as a defendant anyone who had violated the felony provisions.

Dealer records. In addition to the information that the Michigan Vehicle Code already requires licensed dealers to keep, licensed dealers would have to keep for four years copies of all odometer mileage statements they received when they acquired a motor vehicle, as well as copies of statements they furnished owners. Dealers licensed as brokers also would have to keep for four years records of odometer readings of each vehicle they sold. Dealer records would have to contain dealer license numbers for buyers and sellers.

Required information. The vehicle code now requires a seller to provide a buyer with a statement containing certain information, including the odometer reading at the time of sale and a statement that the actual mileage is unknown if the odometer reading differs from actual mileage. The bill would require additional information in these statements of title, including the buyer's name, current address, and signature; a statement acknowledging that incorrect information could result in civil and criminal penalties against the seller; and one of a number of statements attesting to the seller's knowledge or lack of knowledge of actual mileage and whether or not the odometer had been repaired or altered. (If the seller were not a dealer, then completion of the title would satisfy the requirements of the bill.) Dealers would have to get odometer mileage statements for each vehicle they acquired, and they could not accept or provide incomplete statements of title. Odometer information would not be required for vehicles with gross vehicle weights over 16,000 pounds, vehicles 25 years or older, new vehicles transferred from a manufacturer to a dealer, or vehicles that were not self-propelled.

Finally, the bill would correct an apparent error in Public Act 507 of 1978, which amended the vehicle code to provide that sale of a vehicle at retail was void unless accompanied by a written memorandum and actual delivery was made. The bill would specify that either of two conditions would validate a retail sale: a written memorandum signed by both the buyer and seller or an agreement between the parties which contained a place for the buyer to acknowledge either actual delivery of the vehicle or receipt of a copy of the agreement.

MCL 257.217 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, a similar bill from last session (House Bill 4559) had no fiscal implications. (3-13-87).

ARGUMENTS:

For:

The bill would give consumers several new weapons with
OVER

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which they could protect themselves from fraudulent mileage claims for vehicles. By making the altering of an odometer a felony, the bill would make such crimes extremely risky, and encourage prosecution by the attorney general and local prosecutors. It would allow a buyer (including a dealer) to sue anyone who altered an odometer. It would also allow a defendant, usually a dealer, to join any other seller in an action brought by a buyer, which could establish the chain of responsibility for altering an odometer. Finally, the bill would make Michigan's reporting requirements conform with the 1986 federal odometer reforms (PL99-579), a step toward uniformity of enforcement which could reduce the flow of autos with altered odometers and make it easier for dealers to complete registration of out-of-state vehicles. These reporting requirements, under which dealers must obtain completed odometer statements before a title can be transferred, would also give the secretary of state's Bureau of Automotive Regulation important information to pass on to consumers.

For:

Consumers often blame manufacturers or dealers when their seemingly new autos require extensive repairs at relatively few miles. The bill's reporting and recordkeeping requirements would expose odometer fraud as the real culprit in many such cases.

POSITIONS:

The Secretary of State supports the bill. (8-18-87)

The Michigan Consumers Council supports the bill. (8-17-87)

The Michigan Independent Used Car Dealers Association supports the bill. (8-17-87)

The Michigan Auto Dealers Association has not yet taken a position on the bill. (8-18-87)