

A Bill for an Act Relating to Odometers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter 292 to read:

“CHAPTER 292

ODOMETER ACCURACY AND RECORD MAINTENANCE

Sec. 292-1 Findings. The purpose of this chapter is to assure the accuracy of the odometer system installed in certain passenger cars introduced into the State for use, for sale, or for resale, for lease, or for re-lease, for rental, or for rental and to any of the above cars when they are intended for export.

The legislature finds that the automotive industry is cognizant of the concern of the public in regard to the over-registration of passenger car odometers, or the fraudulent manipulation thereof, and is desirous of assisting in eliminating such activities and prohibiting the inclusion of any mileage measuring device in a passenger car that does not comply with the accuracy requirements of the national bureau of standards for commercial odometers or with the society of automotive engineers' recommended practices, SAE J678d and J862b, as applicable.

Sec. 292-2 Definitions. For the purposes of this chapter:

- (1) “Certificate of accuracy” means a written warranty attesting to the initial accuracy of an odometer system, and the endorsement thereon.
- (2) “Certificate of ownership” has the meaning under section 286-47.
- (3) “Director” means the director of agriculture, or his designated representative.
- (4) “Endorsement” means the entry of the odometer reading by the seller, at the time of sale, upon the certificate of ownership or certificate of accuracy.
- (5) “Odometer” is an analog or digital device that represents the miles traveled.

Sec. 292-3 Verification and endorsement required; upon initial introduction into State. Except as by rule provided, every motor vehicle from model year 1972 and later shall have its odometer accuracy verified upon entry into the State prior to being registered. Such verification shall be conducted in a manner as prescribed by the director, and such verification shall be endorsed on the certificate of ownership or certificate of accuracy by the director.

Sec. 292-4 Endorsement by seller required; upon subsequent transfer of title. Any motor vehicle, the title of which changes and whose model year does not exceed twenty-five years shall have its certificate of ownership or certificate of accuracy endorsed by the seller at the time of title transfer, each time the title transfers and when title transfers incident to export, provided that this section shall not apply to persons vested with only a security interest.

Sec. 292-5 Licensing without endorsement; prohibited. Any other law or

regulation to the contrary notwithstanding, no motor vehicle required to have a certificate of ownership or certificate of accuracy endorsement under section 292-3 or 292-4 shall be licensed for operation within the State by any licensing agency without such endorsement duly endorsed.

Sec. 292-6 Properly functioning odometer required. No person shall introduce into the State for any purpose whatever, nor operate within the State for any purpose whatever, a motor vehicle unless it has installed a properly functioning and correctly calibrated odometer.

Sec. 292-7 Tampering with motor vehicle odometer prohibited; misrepresentation of mileage prohibited. (a) It shall be unlawful to:

- (1) Tamper with an odometer, installed in a motor vehicle, for any purpose. This section shall not be construed to preclude legitimate repair, replacement or adjustment of an odometer authorized by the director or his designated representative.
- (2) Advertise for sale, sell, rent, lease, export, any motor vehicle, the odometer of which has been tampered with in such a fashion or manner as to mislead the prospective buyer to believe that the motor vehicle traveled a lesser distance than it actually has traveled.
- (3) Operate a motor vehicle on any street or highway, knowing that the odometer of the motor vehicle is disconnected or nonfunctional with intent to defraud.
- (4) Disconnect, turn back, advance, or reset the odometer of any motor vehicle with intent to alter the mileage indicated on the odometer, unless authorized by the director or his designated representative.

(b) This section shall not apply to the installation, maintenance, repair, or replacement of odometers when such action is necessary to cause compliance with this chapter, nor shall it apply to taximeter installation, maintenance or repair.

Sec. 292-8 Citation and notice to appear; penalty. The director may issue to any person violating this chapter, a citation and notice to appear, at a given time and place, to answer to charges against him.

The form, contents, copy designation and disposition, and appearance dates of such citation and notice to appear shall be prescribed by the district courts.

When a complaint of the violation of this chapter, including any rules adopted thereunder, is made to any prosecuting officer, the arresting officer or employee who issued the citation and notice to appear shall subscribe to it under oath administered by another official or officials of the department, whose name has been submitted to the prosecuting officer and who has been designated by the director to administer the same.

The director may, for a period not to exceed ninety-six hours, impound as evidence any motor vehicle in which an inaccurate or incorrect or inoperable odometer system is installed or exists. Such period may be extended by order of the court.

The director may confiscate as evidence any tools designed to change, manipulate, or otherwise alter the display of an odometer, when he has reason to believe that such tools may be used in an illicit manner or by persons other than

licensed dealers, or licensed repair agencies, or by persons gainfully employed by such agencies or dealers.

The director may stop or direct any vehicle subject to this chapter and require the driver or custodian of the vehicle to move the vehicle to a designated place for inspection of the vehicle or its odometer system.

The director may schedule for inspection such vehicle or vehicles, to be at a designated place at a specific time, and failure to stop, move, or present the motor vehicle as directed or scheduled shall be a violation of this chapter.

Sec. 292-9 Authority to inspect. The director may upon his own initiative or upon complaint, after properly identifying or making a legitimate effort to identify himself, enter upon any public or private property, in accordance with law, where odometers may reasonably be stored, held, sold, repaired, altered, manipulated, or otherwise influenced so as to display any digital or analog representation, factual or otherwise, to determine if any actions relating to odometers are being conducted contrary to law.

Sec. 292-10 Fees. Every motor vehicle covered by section 292-3 shall be assessed a verification fee for the initial verification of the accuracy of the odometer system. Such fee shall be levied only once, for each motor vehicle, and shall be payable in an amount and manner as may be prescribed by rule of the director.

Sec. 292-11 Revolving fund. There is hereby established an odometer enforcement revolving fund into which the director shall deposit all revenue generated under section 292-10. Such funds shall be expended by the director for the enforcement of this chapter and the rules adopted hereunder, as well as costs incident to accounting, personnel, travel, equipment, and supplies, contracting or subcontracting, or any other purpose deemed necessary for the enforcement of this chapter by the director. Such funds shall revert to the general fund on July 1, 1981.

Sec. 292-12 Civil action. (a) Any person who, with intent to defraud, violates any requirement imposed under this chapter 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 court of competent jurisdiction without regard to the amount in controversy, within two years from the date on which the liability occurred.

Sec. 292-13 Disclosure requirements. All certificates of ownership, as issued by the respective counties, shall by license year 1980 be standardized in a form to be prescribed by the director of administrative services for district courts, and such certificates shall have on the reverse side thereof space for entering endorsements, among other requirements established under section 286-47. Each

certificate shall have, in printed form on the bottom of the reverse side, the following statement: "The last endorsement hereon reflects the license plate number and the odometer indication on the date of title transfer; it is accurate to the best of my knowledge and I understand an inaccurate statement may make me liable to the transferee, pursuant to Chapter 292, Hawaii Revised Statutes, and Section 409(A) of the Federal Motor Vehicle Information and Cost Savings Act of 1972."

Sec. 292-14 Certificate of accuracy; discontinuation. Revision of certificate of ownership by license year 1980, as required under section 292-13, will negate the need for a separate document such as the certificate of accuracy; and: excepting those cases where the absence of such a document would impede or preclude a legitimate title transfer, its continued use after 1980 is restricted thereto.

Sec. 292-15 Rules; authority to adopt. The director shall adopt or amend, from time to time, the necessary rules to implement this chapter. Such rules shall be adopted in accordance with chapter 91.

Sec. 292-16 Injunction. In addition to any other remedy by law provided, the director may, through the department of the attorney general, apply to any court of competent jurisdiction for, and such court upon hearing and for cause shown may grant, a temporary or permanent injunction restraining any person from violating this chapter.

Sec. 292-17 Penalties. Any person guilty of committing any of the prohibited acts or omitting any of the required acts of this chapter shall be guilty of a misdemeanor and shall be fined not less than \$200 nor more than \$500, or be imprisoned not to exceed 90 days, for such first offense and, upon each subsequent violation, shall be fined not less than \$500 nor more than \$1,000, or be imprisoned for a period not to exceed one year, or suffer both such fine and imprisonment.

Sec. 292-18 Applicability. The term "motor vehicle," as used herein, shall be applicable to passenger vehicles having a capacity of twelve persons or less; recreational vehicles, excluding two-wheel devices; and any other highway passenger car having a gross vehicle weight not exceeding 20,000 pounds. Such term shall not apply to off-highway and multi-purpose utility vehicles."

SECTION 2. Chapter 292, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 291-38, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 476-35.1, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.*

SECTION 6. This Act shall take effect July 1, 1976.

(Approved May 5, 1976.)

*Edited accordingly.