

SB 113

OFFICE OF THE CLERK
WEST VIRGINIA
SENATE

RECEIVED
MAR 04 11 40 AM '96

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

Committee Substitute for
SENATE BILL NO. 113

(By Senator Miller, et al)



PASSED February 22, 1996
In Effect 90 days from Passage

RECEIVED
Mar 04
NOV
96
FEB 29
PM 4:09
OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

E N R O L L E D

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 113

(SENATORS MILLER, LOVE, GRUBB, OLIVERIO, SCHOONOVER,
SHARPE, DEEM, DUGAN, WHITLOW, ROSS, YODER, KIMBLE,
MANCHIN, BOWMAN, HELMICK, ANDERSON, BLATNIK,
WIEDEBUSCH, PLYMALE, DITTMAR AND MACNAUGHTAN,
original sponsors)

[Passed February 22, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve-a, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to disclosure of odometer information; exceptions; penalties; and making West Virginia law conform to federal requirements.

Be it enacted by the Legislature of West Virginia:

That section twelve-a, article three, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-12a. Disclosure of odometer information; exceptions; penalties.

1 (a) In accordance with the provisions of sections four
2 hundred eight-a and four hundred eight-e of the Motor
3 Vehicle Information and Cost Savings Act, Public Law
4 92-513, the transferor of a motor vehicle must complete
5 the odometer disclosure form on the certificate of title or
6 a separate written odometer disclosure statement, before
7 executing any transfer of ownership document and
8 before a new certificate of title may be issued for a
9 transfer of ownership of a vehicle. The odometer
10 disclosure form on the certificate of title and the
11 separate written odometer disclosure statement shall
12 contain the following information:

13 (1) The odometer reading at the time of transfer (not to
14 include tenths of miles);

15 (2) The date of transfer;

16 (3) The transferor's name and current address;

17 (4) The transferee's name and current address;

18 (5) The transferor's printed name and signature
19 acknowledging the disclosure;

20 (6) The identity of the vehicle, including its make,
21 model, year, body type and identification number;

22 (7) Certification by the transferor that to the best of
23 his or her knowledge the odometer reading reflects:

24 (A) The actual mileage the vehicle has been driven;

25 (B) The amount of mileage in excess of the designated
26 mechanical odometer limit; or

27 (C) A difference from the number of miles the vehicle
28 has actually been driven and that the difference is
29 greater than that caused by odometer calibration error,
30 and that the odometer reading is not the actual mileage.

31 This certification shall state that the odometer reading
32 does not reflect the actual mileage and should not be
33 relied upon, and shall also include a warning notice to
34 alert the transferee that a discrepancy exists between the
35 odometer reading and the actual mileage; and

36 (8) A warning statement referring to state and federal
37 law and the statement: "That failure to complete or
38 providing false information may result in fines and/or
39 imprisonment."

40 Upon issuance of a new title, the division shall mark
41 the new title with an appropriate brand which reflects
42 certification of the prior owner.

43 (b) Before executing any transfer of ownership
44 document, the lessor of a leased motor vehicle must
45 notify a lessee in writing that the lessee is required to
46 provide a written odometer disclosure statement to the
47 lessor. The odometer disclosure statement shall contain
48 the following information:

49 (1) The odometer reading at the time of transfer (not to
50 include tenths of miles);

51 (2) The date of statement;

52 (3) The lessee's name and current address;

53 (4) The lessor's name and current address;

54 (5) The lessee's printed name and signature
55 acknowledging the disclosure;

56 (6) The identity of the vehicle, including its make,
57 model, year, body type and identification number;

58 (7) The date that the lessor notified the lessee of the
59 disclosure requirements;

60 (8) The date that the completed disclosure statement
61 was received by the lessor;

62 (9) The signature of the lessor;

63 (10) Certification by the lessee that to the best of his or

64 her knowledge the odometer reading reflects:

65 (A) The actual mileage the vehicle has been driven;

66 (B) The amount of mileage in excess of the designated
67 mechanical odometer limit; or

68 (C) A difference from the number of miles the vehicle
69 has actually been driven and that the difference is
70 greater than that caused by odometer calibration error,
71 and that the odometer reading is not the actual mileage.
72 This certification shall state that the odometer reading
73 does not reflect the actual mileage and should not be
74 relied upon; and

75 (11) A warning statement referring to state and federal
76 law and the statement: "That failure to complete or
77 providing false information may result in fines and/or
78 imprisonment."

79 If a lessor transfers the leased vehicle without
80 obtaining possession of it, the lessor may indicate on the
81 title the mileage disclosed by the lessee, unless the lessor
82 has reason to believe the disclosure does not state the
83 actual mileage.

84 (c) Notwithstanding the provisions of this section, the
85 form for odometer disclosure on the certificate of title or
86 a separate written odometer disclosure statement need
87 not be completed for any of the following motor vehicles:

88 (1) A vehicle having a gross weight of more than
89 sixteen thousand pounds;

90 (2) A vehicle that is not self-propelled;

91 (3) A vehicle that is ten years old or older;

92 (4) A vehicle sold directly by the manufacturer to any
93 agency of the United States in conformity with
94 contracted specifications; or

95 (5) A new motor vehicle prior to its first transfer for
96 purposes other than resale.

97 (d) Dealers and distributors of motor vehicles who are

98 required by law to execute an odometer disclosure
99 statement shall retain for five years a photostat, carbon
100 or other facsimile copy of each odometer mileage
101 statement which they issue and receive, at their primary
102 place of business in an order that is appropriate to
103 business requirements and that permits systematic
104 retrieval.

105 (e) Lessors shall retain for five years following the date
106 they transfer ownership of the leased vehicle each
107 odometer disclosure statement which they receive from
108 a lessee, at their primary place of business in an order
109 that is appropriate to business requirements and that
110 permits systematic retrieval.

111 (f) Auction companies shall retain for five years
112 following the date of sale of each motor vehicle, at their
113 primary place of business in an order that is appropriate
114 to business requirements and that permits systematic
115 retrieval, the following records:

116 (1) The name of the most recent owner (other than the
117 auction company);

118 (2) The name of the buyer;

119 (3) The vehicle identification number; and

120 (4) The odometer reading on the date the auction
121 company took possession of the motor vehicle.

122 (g) A transfer of a motor vehicle which has not been
123 previously titled in this state or which has a certificate
124 of title issued prior to the first day of January, one
125 thousand nine hundred ninety-one, must include the
126 execution of the transfer by the owner and the purchaser
127 on a form prescribed by the commissioner signed by each
128 of the two parties, which form contains substantially the
129 same information as is required in this section and with
130 the provisions of the odometer mileage statement form
131 pursuant to the Motor Vehicle Information and Cost
132 Savings Act.

133 (h) The commissioner shall promulgate rules for the

134 administration of this section in accordance with chapter
135 twenty-nine-a of this code.

136 (i) Any person who violates any of the provisions of
137 this section with intent to defraud shall be guilty of a
138 misdemeanor, and, upon conviction thereof, shall be
139 fined not less than two hundred dollars nor more than
140 one thousand dollars, or imprisoned in the county jail for
141 not more than six months, or both fined and imprisoned.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schooner
.....
Chairman Senate Committee

Randy Leonard
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell D. White
.....
Clerk of the Senate

Gregory M. Big
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Bill Callahan
.....
Speaker House of Delegates

The within *is approved* this the *6th*
day of *March*, 1966.

Gaston Caperton
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 2/28/96

Time 12:15 pm