

## ODOMETER LAW

Odometer tampering is illegal under both Arizona and Federal law. In Arizona, the law forbids operating, with intent to defraud, a motor vehicle knowing the odometer is disconnected. Replacing, disconnecting, turning back or resetting an odometer with intent to reduce the number of miles indicated on the odometer is illegal.

Dealers may not sell or offer to sell a vehicle on which the odometer does not register the true mileage driven. State and federal law permit the repair, replacement, or servicing of an odometer so long as the mileage shown is the same as before service. If the odometer can't be set to true mileage, it must be set to zero and a notice must be attached to the left doorframe noting the prior mileage reading.

**NOTE: When involved in an "odometer fraud" situation, the dealer must attempt reparation through the use of your dealership attorney. Only consumers may file odometer fraud complaints with the Attorney General's office.**

Federal law requires the completion of an odometer statement, now included on the back of the Arizona title, for a trade-in transaction, as follows:

1. Check the appropriate box ;
2. fill in the mileage blank.
3. Make sure the individual fills in the mileage blank to avoid the "they did it for me" accusation.

Federal law prohibits disconnecting, turning back or resetting an odometer with intent to change the number of miles indicated.

Legislation passed in 1986 strengthens federal statutes on odometer tampering. In brief, the law requires that:

- all states provide on the title a space for the odometer disclosure;
- all titles be printed with a process that would be secure from forgery and alteration;
- all lessees disclose the true mileage of the vehicle to the lessor at the expiration or termination of the lease; and provides penalties against the lessee for failure to disclose the true mileage to the lessor.
- increases civil penalties from \$1000.00 to \$2000.00 per vehicle
- auction companies, upon the sale of any vehicle, establish and maintain, for at least four years, the following records:
  - (a) the name of the buyer and seller of the vehicle
  - (b) the motor vehicle identification number of the vehicle; and
  - (c) the odometer reading of the vehicle on the date the auction company took possession of the vehicle.

The prior mileage and date of repair or replacement are to be indicated on the notice. It is the general practice of speedometer repair outlets to return repaired speedometers to their customers showing the original miles on the odometer as received. This applies whether or not the odometer unit is replaced.

AADA has been told by a Phoenix authorized speedometer repair station that they will neither increase nor decrease an odometer reading, even if the odometer has been inoperative for any period of time.

It is highly recommended that whenever a dealership is involved in an odometer repair or replacement, that all dealer repair documents, plus sublet repair invoices, indicate complete explanation of the repair including before and after mileage readings. All vehicles must have the sticker on the door jam.

## ODOMETER DISCLOSURE WITH ENGINE CHANGE:

In the event of an engine change in a vehicle, and when the odometer is not changed, removed or serviced, an odometer disclosure is not required to be completed.

## ODOMETER Q & A:

April 29, 1989, new regulations governing the use of odometer statements went into effect. The regulations are confusing. The following questions and answer the most frequently raised points of concern.

*Q. If a manufacturer sells directly to a government agency, they are exempted from the regulation. Are sales by a dealership to a government agency also exempt?*

A. No

*Q. When a government agency sells a vehicle are they required to complete an odometer disclosure?*

A. Yes

*Q. Why are vehicles 10 years old and older exempted?*

A. NHTSA says odometer fraud is not a major factor in the price of those automobiles, and is more common in newer vehicles.

*Q. The law exempts "New motor vehicle transfers prior to the first retail sale." If a dealer buys a new vehicle and obtains a title in the name of the dealership is this a retail sale?*

A. No, because the dealer is purchasing the vehicle for the purpose of resale, and no odometer statement is required.

*Q. If a leasing company purchases a new vehicle to title in their name is this a retail sale?*

A. Yes, because the lessor is purchasing the vehicle for use, not for resale.

*Q. Which copy of the odometer disclosure statement must be submitted to the motor vehicle division?*

A. Arizona now has a secure odometer statement and **the original has to be with the title work.**

*Q. The new odometer form has a line for the transferors and the transferee's printed name. Can it be typed or must it be hand written.*

A. Per Motor Vehicle division, it may be hand written or typed.

*Q. Can the new odometer disclosure statement be included as a part of another form such as the security agreement or a bill of sale?*

A. Yes, as long as all of the new language is used.

*Q. Can we print our own forms or do them on a word processor?*

A. **NO!**

*Q. When a dealer handles a courtesy delivery, who signs the odometer as transferor?*

A. Original selling dealer or courtesy delivery dealer w/Power of Attorney from original selling dealer.

*Q. The Odometer section on the title application still has the old odometer designation of A, B, And C; the new odometer statement no longer uses this designation. How do we mark the application?*

A. Mark the boxes as you did before.

*Q. If the odometer has been replaced or repaired, how should I indicate this?*

A. You don't. You just mark whichever designation that applies: actual mileage, excess of mechanical limits or not actual mileage.

*Q. If I make an error on the disclosure form, can I change it?*

A. If the error is on the mileage, tear up the form and do a new one. Any other error on the form can be corrected, signed and dated.

*Q. As a leasing company, when do I have the lessee sign the disclosure statement, and what do I do with it?*

A. Federal regulations require that you give the lessee written notice, sometime prior to the time you sell the vehicle, and that lessee will be required to make an odometer disclosure statement at the time the vehicle is returned to the lessor. It is not to be submitted to MVD, but kept in lessor's file. (See **Sample at end of this Section.**)

*Q. Does a dealer need an odometer disclosure statement for each reassignment to another dealer?*

A. Yes. Federal regulations require that dealers keep a disclosure statement for each transfer. Arizona state law requires that an odometer disclosure statement be submitted to MVD for each reassignment.

*Q. If the vehicle is repossessed by a lien holder, does the lien holder make an odometer statement if the title is to be developed in the lien holder's name?*

A. Yes.

*Q. If a vehicle is repossessed by a lien holder and then sold with a bill of sale, without first developing title, does the lien holder have to provide the new buyer with an odometer statement?*

A. Yes.

*Q. Once the lien holder has title in his/her name and sells or transfers the vehicle, must the lien holder use the new odometer form or can the odometer disclosure on the back of the title be used?*

A. If the lien holder is selling to a dealer, the new odometer form must be used. Otherwise, the disclosure on the back of the title is acceptable.

*Q. If there is more than one buyer, and more than one seller, should all names appear on the odometer disclosure statement?*

A. No, only one buyer name and one seller name is needed.

*Q. Can a Power of Attorney be used to complete the odometer disclosure?*

A. Yes, a Power of Attorney can be used. The traditional uses of a Power of Attorney were not changed. However, a Power of Attorney can't be used when the person exercising the Power of Attorney is signing the odometer disclosure on behalf of both the seller and the buyer.

*Q. Is there ever a situation when a Power of Attorney could be used by a person who would need to sign on behalf of the buyer and seller?*

A. A Power of Attorney used for both the buyer and seller is allowed in the single instance when the title is in the physical possession of a lien holder in a state where the title is mailed to the lien holder and not the registered owner (title holding state).

*Q. I am a title clerk for several dealerships. Can I sign as both transferee and transferor for different dealerships?*

A. No. The transferee and transferor can't be the same person, even if the person is the agent for both dealerships.

*Q. I'm a car dealer and have odometer disclosure forms issued in triplicate. Who gets a copy?*

A. One copy is submitted to the Motor Vehicle Division with the title transaction, one copy is to be kept by the dealer for at least five years and one copy goes to the other party of the transaction (either the transferor or the transferee).

*Q. The odometer statement on the back of the MCO does not have the new odometer language. Can we use it anyway?*

A. No. A separate odometer form must be completed at the time of the first retail sale.

- Shown below is the link to the Federal ruling regarding Odometer disclosure.

<http://frwebgate3.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=08270610094+1+0+0&WAISaction=retrieve>

The state Odometer law is located at:

- 28-2058. [Transfer of title; odometer mileage disclosure statement](#)