

HOUSE BILL No. 6270

September 17, 2002, Introduced by Rep. Patterson and referred to the Committee on Criminal Justice.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 233a (MCL 257.233a), as amended by 2000 PA 82.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 233a. (1) When the owner of a registered motor vehicle
2 transfers his or her title or interest in that vehicle, the
3 transferor shall present to the transferee before delivery of the
4 vehicle ~~—~~ written disclosure of THE VEHICLE'S odometer mileage
5 by means of the certificate of title or a written statement
6 signed by the transferor ~~—including—~~ THAT INCLUDES the
7 transferor's printed name ~~—, containing—~~ IN ADDITION TO all of
8 the following:

1 (a) The odometer reading at the time of transfer not ~~to~~
2 ~~include the~~ INCLUDING tenths of ~~a mile or kilometer~~ MILES OR
3 KILOMETERS.

4 (b) The date of transfer.

5 (c) The transferor's name and current address.

6 (d) The transferee's name and current address.

7 (e) The identity of the vehicle, including its make, model,
8 body type, year, and vehicle identification number.

9 (f) A reference to this section and comparable federal law,
10 and a statement that failing to complete the title or form or
11 providing false information may result in civil liability and
12 civil or criminal penalties being imposed on the transferor.

13 (g) One of the following:

14 (i) A statement by the transferor certifying that to the
15 best of his or her knowledge the odometer reading reflects the
16 actual mileage of the vehicle.

17 (ii) If the transferor knows that the odometer reading
18 reflects the amount of mileage in excess of the designed mechani-
19 cal odometer limit, a statement to that effect.

20 (iii) If the ~~transfer~~ TRANSFEROR knows that the odometer
21 reading differs from the mileage and the difference is greater
22 than that caused by odometer calibration error, a statement that
23 the odometer reading does not reflect the actual mileage and
24 should not be relied upon. This notice shall include a warning
25 notice to alert the transferee that a discrepancy exists between
26 the odometer and the actual mileage.

1 (h) Space for the signature and printed name of the
2 transferee ~~—~~ and the date of presentation to the transferee.

3 (2) A certificate of title and a dealer reassignment form
4 shall contain a place for the information required by subsection
5 (1)(a) to (h). If the vehicle is not titled or the title does
6 not contain a space for the required information, a written
7 statement shall be provided as a separate document.

8 (3) A dealer selling or exchanging vehicles required to be
9 titled under this act shall present the certificate of title or
10 written statement and any reassigned titles in his or her posses-
11 sion to the transferee. The transferee or the transferee's agent
12 shall inspect, print his or her name, sign, and date the certifi-
13 cate or statement and return it to the transferor for submission
14 to the secretary of state. If neither the transferee nor trans-
15 feror is a dealer licensed under this act, completing the odome-
16 ter information on the certificate of title shall be considered
17 to comply with subsection (1). A person shall not sign an odome-
18 ter disclosure statement as both the transferor and transferee in
19 the same transaction.

20 (4) A new or used vehicle dealer shall obtain from the
21 transferor a completed odometer mileage statement ~~which~~ THAT
22 meets the requirements of subsection (1) with each motor vehicle
23 acquired by the dealer. The dealer shall not accept ~~nor~~ OR
24 provide an odometer mileage statement or a title ~~which~~ THAT
25 contains a place for odometer information ~~which~~ THAT has not
26 been completely filled in by the transferor.

1 (5) The odometer information described in subsection (1)
2 shall not be required for any of the following:

3 (a) Vehicles having a gross vehicle weight rating of more
4 than 16,000 pounds.

5 (b) A vehicle that is not self-propelled.

6 (c) A vehicle that is ~~10~~ 12 years old ~~—~~ or older.

7 (d) A new vehicle transferred from a manufacturer to a
8 dealer.

9 (e) A vehicle sold directly by the manufacturer to an agency
10 of the United States in conformity with contractual
11 specifications.

12 (f) A low-speed vehicle.

13 (6) A person shall not alter, set back, or disconnect an
14 odometer; cause or allow an odometer to be altered, set back, or
15 disconnected; or advertise for sale, sell, use, install, or cause
16 or allow to be installed a device which causes an odometer to
17 register other than the actual mileage driven. This subsection
18 does not prohibit the service, repair, or replacement of an odom-
19 eter if the mileage indicated on the odometer remains the same as
20 before the service, repair, or replacement. If the odometer is
21 incapable of registering the same mileage as before the service,
22 repair, or replacement, the odometer shall be adjusted to read
23 zero and a notice in writing shall be attached to the left door
24 frame of the vehicle by the owner or his or her agent specifying
25 the mileage prior to service, repair, or replacement of the odom-
26 eter and the date on which it was serviced, repaired, or

1 replaced. A person shall not remove, deface, or alter any notice
2 affixed to a motor vehicle pursuant to this subsection.

3 (7) ~~A person who violates subsection (6) is guilty of a~~
4 ~~felony.~~ IF A PERSON IS CONVICTED OF VIOLATING SUBSECTION (6),
5 ALL OF THE FOLLOWING APPLY:

6 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (B), THE
7 PERSON IS GUILTY OF A FELONY PUNISHABLE BY 1 OR MORE OF THE
8 FOLLOWING:

9 (i) IMPRISONMENT FOR NOT MORE THAN 10 YEARS.

10 (ii) A FINE OF \$2,000.00 FOR EACH VIOLATION OR, IF THE VIO-
11 LATION OCCURS NOT MORE THAN 3 YEARS AFTER THE YEAR THAT IS THE
12 MODEL YEAR OF THE VEHICLE, A FINE OF \$4,000.00 FOR EACH
13 VIOLATION. HOWEVER, THE TOTAL AMOUNT OF FINES IMPOSED UNDER THIS
14 SUBSECTION SHALL NOT EXCEED \$100,000.00.

15 (B) IF THE VIOLATION OCCURS WITHIN 5 YEARS OF A PRIOR CON-
16 VICTION FOR VIOLATING SUBSECTION (6), THE PERSON IS GUILTY OF A
17 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS.

18 (8) Before executing a transfer of ownership document, a
19 lessor of a leased vehicle shall notify the lessee in writing
20 that ownership of the vehicle is being transferred and that the
21 lessee is required to provide a written statement to the lessor
22 regarding the mileage of the vehicle. This notice shall inform
23 the lessee of the penalties for failure to comply with the
24 requirement.

25 (9) Upon receiving notification from the lessor of a leased
26 vehicle that ownership of the vehicle is to be transferred, the
27 lessee shall furnish to the lessor a written statement regarding

1 the mileage of the vehicle. This statement shall be signed by
2 the lessee and shall contain all of the following:

3 (a) The printed name of the person making the statement.

4 (b) The current odometer reading, not including tenths of
5 miles OR KILOMETERS.

6 (c) The date of the statement.

7 (d) The lessee's name and current address.

8 (e) The lessor's name and current address.

9 (f) The identity of the vehicle, including its make, model,
10 year, body type, and vehicle identification number.

11 (g) The date that the lessor notified the lessee of the
12 requirements of this subsection.

13 (h) The date that the completed disclosure statement was
14 received by lessor.

15 (i) The signature of the lessor.

16 (j) One of the following:

17 (i) A statement by the lessee certifying that to the best of
18 his or her knowledge the odometer reading reflects the actual
19 mileage of the vehicle.

20 (ii) If the lessee knows that the odometer reading reflects
21 the amount of mileage in excess of the designed mechanical odome-
22 ter limit, a statement to that effect.

23 (iii) If the lessee knows that the odometer reading differs
24 from the mileage and that the difference is greater than that
25 caused by odometer calibration error, a statement that the odome-
26 ter reading is not the actual mileage and should not be relied
27 upon.

1 (10) If the lessor transfers a leased vehicle without
2 obtaining possession of the vehicle, the lessor may indicate on
3 the certificate of title the mileage disclosed by the lessee
4 under subsection (9), unless the lessor has reason to believe
5 that the mileage disclosed by the lessee does not reflect the
6 actual mileage of the vehicle.

7 (11) A dealer who is required by this section to execute an
8 odometer mileage statement shall retain for 5 years a photostat-
9 ic, carbon, or other facsimile copy of each odometer mileage
10 statement the dealer issues or receives. The dealer shall retain
11 the odometer mileage statements at his or her primary place of
12 business in an order that is appropriate to business requirements
13 and that permits systematic retrieval.

14 (12) A lessor shall retain for 5 years following the date of
15 transfer of ownership of each leased vehicle ~~—~~ the odometer
16 mileage statement received from the lessee. The lessor shall
17 retain the odometer mileage statements at his or her primary
18 place of business in an order that is appropriate to business
19 requirements and that permits systematic retrieval.

20 (13) An auction dealer or vehicle salvage pool operator
21 shall establish and retain at his or her primary place of busi-
22 ness in an order that is appropriate to business requirements and
23 that permits systematic retrieval, for 5 years following the date
24 of sale of each motor vehicle, the following records:

25 (a) The name ~~and~~ OF the most recent owner, other than the
26 auction dealer or salvage pool operator.

1 (b) The name of the buyer.

2 (c) The vehicle identification number.

3 (d) The odometer reading, not including ~~the~~ tenths of ~~a~~
4 ~~mile~~ MILES OR KILOMETERS, on the date the auction dealer or sal-
5 vage pool operator took possession of the motor vehicle.

6 (14) A violation of subsection (1) or (6) by ~~any~~ A dealer
7 licensed under this act is prima facie evidence of a fraudulent
8 act as provided in section 249.

9 (15) A person who, with intent to defraud, violates any
10 requirement under subsection (1) or (6), or a dealer who fails to
11 retain for 5 years each odometer mileage statement the dealer
12 receives and each odometer mileage statement furnished by the
13 dealer upon the sale of a vehicle, is liable in an amount equal
14 to 3 times the amount of actual damages sustained or ~~-\$1,500.00~~
15 \$3,000.00, whichever is greater, and in the case of a successful
16 recovery of damages, the costs of the action together with rea-
17 sonable ~~attorney's~~ ATTORNEY fees.

18 (16) A TRANSFEREE SHALL NOT FILE SUIT AGAINST A TRANSFEROR
19 FOR DAMAGES UNDER SUBSECTION (15) FOR A VIOLATION OF SUBSECTION
20 (1) OR (6) MORE THAN 2 YEARS AFTER THE DATE THE TRANSFEREE KNEW
21 OR SHOULD HAVE KNOWN OF THE VIOLATION.

22 (17) IT IS THE INTENT OF THE LEGISLATURE THAT THE SECRETARY
23 OF STATE AND THE DEPARTMENT OF STATE POLICE AGGRESSIVELY COORDI-
24 NATE ACTIVITIES WITH APPROPRIATE LOCAL, STATE, AND FEDERAL LAW
25 ENFORCEMENT AGENCIES TO ENFORCE THIS SECTION.