

SENATE BILL No. 48

January 22, 2003, Introduced by Senators PATTERSON, CASSIS, TOY and GOSCHKA and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 227 and 233a (MCL 257.227 and 257.233a),
section 227 as amended by 1995 PA 287 and section 233a as amended
by 2000 PA 82.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 227. (1) Application for renewal of a vehicle
2 registration shall be made by the owner upon proper application
3 and by payment of the registration fee for the vehicle, as
4 provided by law.

5 (2) Every ~~such~~ application shall be accompanied by the
6 certificate of title pertaining to the vehicle, showing ownership
7 in the person applying for registration at the time of the
8 application. However, the secretary of state may waive the
9 presentation of the certificate of title.

1 (3) ~~Beginning January 1, 1983, every~~ **Every** application for
2 renewal of a motor vehicle registration made by mail, shall be
3 accompanied by proof of vehicle insurance in a form determined by
4 the secretary of state.

5 (4) ~~Beginning January 1, 1981, every~~ **Every** application for
6 renewal of a motor vehicle registration made in person at a
7 secretary of state field office shall be accompanied by proof of
8 vehicle insurance in a form determined by the secretary of
9 state.

10 (5) Notwithstanding subsections (3) and (4), the secretary of
11 state shall accept as proof of vehicle insurance a transmission
12 of the applicant's vehicle identification number only for an
13 insured vehicle for which vehicle registration is sought. The
14 secretary of state may determine in what format the secretary of
15 state will receive vehicle identification number information.
16 The transmission to the secretary of state of a vehicle
17 identification number is proof of insurance to the secretary of
18 state for motor vehicle registration purposes only and is not
19 evidence that a policy of insurance actually exists between an
20 insurer and an individual. Vehicle identification numbers
21 received by the secretary of state under this subsection are
22 confidential, are not subject to the freedom of information act,
23 ~~Act No. 442 of the Public Acts of 1976, being sections 15.231 to~~
24 ~~15.246 of the Michigan Compiled Laws~~ **1976 PA 442, MCL 15.231 to**
25 **15.246**, and shall not be disclosed to any person except pursuant
26 to an order by a court of competent jurisdiction in connection
27 with a claim or fraud investigation or prosecution.

1 (6) Every application for renewal of a motor vehicle
2 registration shall be accompanied by a statement of the mileage
3 of the vehicle as of the date of application. The statement of
4 mileage shall be in the form and by the method prescribed by the
5 secretary of state. The secretary of state shall compile and
6 maintain a record of the vehicle's yearly mileage and shall only
7 use the information contained in the statement of mileage to
8 notify an owner of the vehicle that the vehicle's odometer may
9 have been altered, set back, or disconnected in violation of
10 section 233a(6).

11 Sec. 233a. (1) When the owner of a registered motor vehicle
12 transfers his or her title or interest in that vehicle, the
13 transferor shall present to the transferee before delivery of the
14 vehicle — written disclosure of **the vehicle's** odometer mileage
15 by means of the certificate of title or a written statement
16 signed by the transferor ~~including~~ **that includes** the
17 transferor's printed name ~~—, containing~~ **in addition to** all of
18 the following:

19 (a) The odometer reading at the time of transfer not ~~to~~
20 ~~include the~~ **including** tenths of ~~a mile or kilometer~~ **miles or**
21 **kilometers.**

22 (b) The date of transfer.

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

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

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

27 (f) A reference to this section and comparable federal law,

1 and a statement that failing to complete the title or form or
2 providing false information may result in civil liability and
3 civil or criminal penalties being imposed on the transferor.

4 (g) One of the following:

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

8 (ii) If the transferor knows that the odometer reading
9 reflects the amount of mileage in excess of the designed
10 mechanical odometer limit, a statement to that effect.

11 (iii) If the ~~transfer~~ **transferor** knows that the odometer
12 reading differs from the mileage and the difference is greater
13 than that caused by odometer calibration error, a statement that
14 the odometer reading does not reflect the actual mileage and
15 should not be relied upon. This notice shall include a warning
16 notice to alert the transferee that a discrepancy exists between
17 the odometer and the actual mileage.

18 (h) Space for the signature and printed name of the
19 transferee — and the date of presentation to the transferee.

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

25 (3) A dealer selling or exchanging vehicles required to be
26 titled under this act shall present the certificate of title or
27 written statement and any reassigned titles in his or her

1 possession to the transferee. The transferee or the transferee's
2 agent shall inspect, print his or her name, sign, and date the
3 certificate or statement and return it to the transferor for
4 submission to the secretary of state. If neither the transferee
5 nor transferor is a dealer licensed under this act, completing
6 the odometer information on the certificate of title shall be
7 considered to comply with subsection (1). A person shall not
8 sign an odometer disclosure statement as both the transferor and
9 transferee in the same transaction.

10 (4) A new or used vehicle dealer shall obtain from the
11 transferor a completed odometer mileage statement ~~which~~ **that**
12 meets the requirements of subsection (1) with each motor vehicle
13 acquired by the dealer. The dealer shall not accept ~~nor~~ **or**
14 provide an odometer mileage statement or a title ~~which~~ **that**
15 contains a place for odometer information ~~which~~ **that** has not
16 been completely filled in by the transferor.

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

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

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

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

23 (d) A new vehicle transferred from a manufacturer to a
24 dealer.

25 (e) A vehicle sold directly by the manufacturer to an agency
26 of the United States in conformity with contractual
27 specifications.

(f) A low-speed vehicle.

(6) A person shall not alter, set back, or disconnect an odometer; cause or allow an odometer to be altered, set back, or disconnected; or advertise for sale, sell, use, install, or cause or allow to be installed a device which causes an odometer to register other than the actual mileage driven. This subsection does not prohibit the service, repair, or replacement of an odometer if the mileage indicated on the odometer remains the same as before the service, repair, or replacement. If the odometer is incapable of registering the same mileage as before the service, repair, or replacement, the odometer shall be adjusted to read zero and a notice in writing shall be attached to the left door frame of the vehicle by the owner or his or her agent specifying the mileage prior to service, repair, or replacement of the odometer and the date on which it was serviced, repaired, or replaced. A person shall not remove, deface, or alter any notice affixed to a motor vehicle pursuant to this subsection.

(7) ~~A person who violates subsection (6) is guilty of a felony.~~ If a person is convicted of violating subsection (6), all of the following apply:

(a) Except as otherwise provided in subdivision (b), the person is guilty of a felony punishable by 1 or more of the following:

(i) Imprisonment for not more than 10 years.

(ii) A fine of \$2,000.00 for each violation or, if the violation occurs not more than 3 years after the year that is the

1 model year of the vehicle, a fine of \$4,000.00 for each
2 violation. However, the total amount of fines imposed under this
3 subsection shall not exceed \$100,000.00.

4 (b) If the violation occurs within 5 years of a prior
5 conviction for violating subsection (6), the person is guilty of
6 a felony punishable by imprisonment for not more than 15 years.

7 (8) Before executing a transfer of ownership document, a
8 lessor of a leased vehicle shall notify the lessee in writing
9 that ownership of the vehicle is being transferred and that the
10 lessee is required to provide a written statement to the lessor
11 regarding the mileage of the vehicle. This notice shall inform
12 the lessee of the penalties for failure to comply with the
13 requirement.

14 (9) Upon receiving notification from the lessor of a leased
15 vehicle that ownership of the vehicle is to be transferred, the
16 lessee shall furnish to the lessor a written statement regarding
17 the mileage of the vehicle. This statement shall be signed by
18 the lessee and shall contain all of the following:

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

20 (b) The current odometer reading, not including tenths of
21 miles **or kilometers**.

22 (c) The date of the statement.

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

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

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

27 (g) The date that the lessor notified the lessee of the

1 requirements of this subsection.

2 (h) The date that the completed disclosure statement was
3 received by lessor.

4 (i) The signature of the lessor.

5 (j) One of the following:

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

9 (ii) If the lessee knows that the odometer reading reflects
10 the amount of mileage in excess of the designed mechanical
11 odometer limit, a statement to that effect.

12 (iii) If the lessee knows that the odometer reading differs
13 from the mileage and that the difference is greater than that
14 caused by odometer calibration error, a statement that the
15 odometer reading is not the actual mileage and should not be
16 relied upon.

17 (10) If the lessor transfers a leased vehicle without
18 obtaining possession of the vehicle, the lessor may indicate on
19 the certificate of title the mileage disclosed by the lessee
20 under subsection (9), unless the lessor has reason to believe
21 that the mileage disclosed by the lessee does not reflect the
22 actual mileage of the vehicle.

23 (11) A dealer who is required by this section to execute an
24 odometer mileage statement shall retain for 5 years a
25 photostatic, carbon, or other facsimile copy of each odometer
26 mileage statement the dealer issues or receives. The dealer
27 shall retain the odometer mileage statements at his or her

1 primary place of business in an order that is appropriate to
2 business requirements and that permits systematic retrieval.

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

9 (13) An auction dealer or vehicle salvage pool operator shall
10 establish and retain at his or her primary place of business in
11 an order that is appropriate to business requirements and that
12 permits systematic retrieval, for 5 years following the date of
13 sale of each motor vehicle, the following records:

14 (a) The name ~~and~~ of the most recent owner, other than the
15 auction dealer or salvage pool operator.

16 (b) The name of the buyer.

17 (c) The vehicle identification number.

18 (d) The odometer reading, not including ~~the~~ tenths of ~~a~~
19 ~~mile~~ **miles or kilometers**, on the date the auction dealer or
20 salvage pool operator took possession of the motor vehicle.

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

24 (15) A person who, with intent to defraud, violates any
25 requirement under subsection (1) or (6), or a dealer who fails to
26 retain for 5 years each odometer mileage statement the dealer
27 receives and each odometer mileage statement furnished by the

1 dealer upon the sale of a vehicle, is liable in an amount equal
2 to 3 times the amount of actual damages sustained or ~~-\$1,500.00~~
3 **\$3,000.00**, whichever is greater, and in the case of a successful
4 recovery of damages, the costs of the action together with
5 reasonable ~~attorney's~~ **attorney** fees.

6 (16) A transferee shall not file suit against a transferor
7 for damages under subsection (15) for a violation of subsection
8 (1) or (6) more than 2 years after the date the transferee knew
9 or should have known of the violation.

10 (17) It is the intent of the legislature that the secretary
11 of state and the department of state police aggressively
12 coordinate activities with appropriate local, state, and federal
13 law enforcement agencies to enforce this section.