

**110-RICR-40-00-3**

## **TITLE 110 – ATTORNEY GENERAL**

### **CHAPTER 40 – CONSUMER PROTECTION UNIT**

#### **SUBCHAPTER 00 – N/A**

**PART 3 – Rules and Regulations Relating to the Sale of Motor Vehicles with Tampered, Altered, Replaced, Reset, or at any Time Disconnected Odometer Gauges**

### **3.1 Purpose**

The Department of Attorney General, in conjunction with the Rhode Island Department of Transportation Division of Motor Vehicles and the Rhode Island Motor Vehicle Dealers License Commission, has found that all too frequently motor vehicles in the State of Rhode Island are sold with tampered, altered, replaced, reset, or misrepresented odometer gauge readings. The Attorney General has also found that, as a result of the sale of these motor vehicles with deceptive odometer gauge readings, members of the consuming public have been and are threatened to be damaged and therefore need protection. These rules and regulations are for the purpose of determining and/or regulating certain conduct concerning the sale of automobiles with altered, replaced, reset or at any time disconnected odometer gauges. These rules and regulations are also for the purpose of determining and/or regulating certain representations and/or misrepresentations of the actual mileage traveled by a motor vehicle. These practices are or may involve unfair methods of competition or unfair or deceptive acts or practices as defined in R.I. Gen. Laws § 6-13.1-1 and as prohibited by R.I. Gen. Laws § 6-13.1-2. These rules and regulations are for the purpose of protecting unknowing purchasers from suffering financial damage through the purchase of a motor vehicle with a tampered, altered, reset, misrepresented, or at any time disconnected odometer gauge.

### **3.2 Authority**

These regulations are adopted pursuant to R.I. Gen. Laws section 6-13.1-1 *et. seq.*, the Deceptive Trade Practices Act, specifically R.I. Gen. Laws § 6-13.1-7(c) and the Administrative Procedures Act, R.I. Gen. Laws section 42-35-1 *et. seq.*

### **3.3 Scope**

These regulations apply to all persons required to be licensed as motor vehicle dealers in accordance with the R.I. Gen. Laws § 31-5-5. These Rules and

Regulations apply only to transactions which occur after these rules and regulations become effective.

### **3.4 Definitions**

- A. As used in these Rules and Regulations, the following words shall have the following meanings:
1. Motor Vehicle means any vehicles driven or drawn by mechanical power for use on the public streets, roads and highways.
  2. Odometer means an instrument for measuring and recording the actual mileage a motor vehicle travels while in operation.
  3. Tampered Odometer means an odometer which has been altered, reset, misrepresented or at any time disconnected.
  4. Motor Vehicle Dealer is any person, firm or corporation who sells or acts as a broker with respect to the sale of more than four (4) unregistered vehicles in any one (1) year.
  5. Purchaser means any person, other than a motor vehicle dealer, manufacturer or distributor, who by means of a voluntary transfer acquires title or other legal interest in a motor vehicle.
  6. Seller means the motor vehicle dealer who sells, or acts as an agent in the transfer of title or other legal interest in a motor vehicle. A motor vehicle dealer, or his employee, is acting as an agent for the sale of a motor vehicle if the vehicle is shown for sale on the property specified as the dealership "location" as defined in R.I. Gen. Laws § 31-5-9.
  7. Clear and Conspicuous means that the statement, representation or term being disclosed is of such size, sound or color contrast and is so placed as to be readily noticeable to the person to whom it is being disclosed. A statement contained in a printed contract, form or notice is not clear and conspicuous unless it is printed in at least ten point or its equivalent.
  8. Clear Title means free of any lien.
  9. Definitions stated in Section 1 of the Deceptive Trade Practices Act, R.I. Gen. Laws § 6-13.1-1, as amended, are hereby incorporated by reference.

### **3.5 Applicability**

- A. These regulatory requirements apply to all sellers subject to these rules and regulations except as provided in § 3.5(B) of this Part.
- B. Sellers shall not be liable under these rules and regulations to a purchaser of a motor vehicle with a tampered odometer if the following procedures are followed:
  - 1. The box indicating “(3) I hereby certify that to the best of my knowledge the odometer reading as stated above is not the actual mileage of vehicle described below and should not be relied upon” is checked on the federal odometer statement which odometer statement is required by the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. § 1988;
  - 2. The words “the mileage/odometer reading shown cannot be relied upon as the true mileage due to alteration” are clearly and conspicuously, in red ink, displayed on the title to the motor vehicle prior to the transfer;
  - 3. The purchaser signs and has notarized, prior to the actual transfer of title and prior to any monies changing hands or exchanges taking place, an affidavit which conforms to that required by the Department of Transportation Division of Motor Vehicles and contains the following information:
    - a. All information required to be placed on bills of sale for motor vehicles in accordance with Rules and Regulations promulgated by the Dealers License Commission under their authority to administer R.I. Gen. Laws §§ 31-5-1 through 31-5-20 inclusive, as amended; and
    - b. That the purchaser is aware that the mileage/odometer reading cannot be relied upon as the true mileage is unknown due to alteration.
- C. Failure of a purchaser to follow the procedures herein set forth in no way affects any other right a purchaser has under federal or state law.

### **3.6 Consumer Procedures and Remedies**

- A. A Purchaser who discovers that he/she has purchased a motor vehicle, from a seller, with an altered mileage/odometer reading must within twenty (20) days of this discover send, by certified mail, a letter to the seller detailing the facts in support of the purchasers allegation of the altered mileage/odometer reading including but not limited to copies of all documents pertinent to the purchasers allegation.

- B. The Seller shall have thirty (30) days to establish that the mileage reading shown on the motor vehicle title and/or federal odometer statement at the time of the purchase was true and accurate.
- C. If the truth and accuracy of the mileage reading of the motor vehicle at the time of the transfer of title cannot be verified by the seller within the thirty (30) days of notification:
  - 1. The seller shall, within an additional ten (10) days, rescind the sale of the motor vehicle and return to the purchaser the following:
    - a. Total purchase price of the car including any deposits and/or trade-in value included in the original price except as provided in § 3.6(C)(1)(d) of this Part below;
    - b. Any sales tax paid by the purchaser on the motor vehicle;
    - c. The cost of any repairs excluding normal maintenance costs and excluding the cost of any repairs the result of a collision.
    - d. If the purchaser does not discover and notify the seller, in accordance with § 3.6(A) of this Part, of the altered mileage/odometer reading within four (4) months of purchasing the motor vehicle, an amount equal to fifteen cents (15¢) per mile for each mile traveled in the purchased automobile, since the transfer, may be deducted.
  - 2. The purchaser shall:
    - a. Return possession of the motor vehicle, in substantially the same condition, with the exception of normal wear and tear, as when the purchaser obtained possession of the motor vehicle from the seller, to the seller simultaneously upon receipt of the amount due as calculated according to § 3.6(C)(1) of this Part above; and
    - b. Simultaneously transfer clear title to the seller (except as provided in § 3.6(C)(2)(c) of this Part below) that title having been clearly and conspicuously stamped, by the Registry of Motor Vehicles, with the words "the mileage/odometer reading cannot be relied upon as the true mileage due to alteration".
    - c. If the automobile was financed and the financial establishment possesses the title, the purchaser and the seller shall work out a mutually agreeable method of transferring possession of the motor vehicle and transferring title, provided however that the seller must

be willing to make himself/herself available to accomplish these transfers within the original ten (10) day period according to § 3.6(C)(1) of this Part above.

### **3.7 Violations**

It shall be an unfair act or practice for a seller subject to these rules and regulations to violate or fail to comply with any provision of these rules and regulations.

### **3.8 Enforcement**

These rules and regulations are enforceable to the same extent as would be any violation of the provisions of the Rhode Island Deceptive Trade Practices Act, R.I. Gen. Laws § 6-13.1-1, *et. seq.* Specifically, enforcement remedies include injunctive and/or monetary relief pursuant to R.I. Gen. Laws § 6-13.1-5 and civil penalties pursuant to R.I. Gen. Laws § 6-13.1-8.

### **3.9 Severability**

If any provision of these rules and regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of these rules and regulations are declared to be severable.

### **3.10 Effective Date**

These regulations shall become effective twenty (20) days after filing with the Office of Secretary of State.