

FIRST REGULAR SESSION

HOUSE BILL NO. 664

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RUTH.

1580H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 301.192, 301.280, 407.526, 407.536, and 407.556, RSMo, and to enact in lieu thereof five new sections relating to motor vehicle odometer readings, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 301.192, 301.280, 407.526, 407.536, and 407.556, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 301.192, 301.280,
3 407.526, 407.536, and 407.556, to read as follows:

301.192. 1. In addition to any other requirements of section 301.190, when application
2 is made for a certificate of ownership for a motor vehicle or trailer seven years old or older and
3 the value of vehicle does not exceed three thousand dollars, for which no record of any prior
4 application for a certificate of ownership exists in the records of the director of revenue or for
5 which the records of the director of revenue reflect incomplete or conflicting documentation of
6 ownership, the director of revenue may issue a certificate of ownership, not less than thirty days
7 after receiving the completed application, provided it is accompanied by:

- 8 (1) An affidavit explaining how the motor vehicle or trailer was acquired and the reasons
9 a valid certificate of ownership cannot be furnished;
- 10 (2) Presentation of all evidence of ownership in the applicant's possession;
- 11 (3) Title verification from a state in which the vehicle was previously titled or registered
12 if known, provided the vehicle was so previously titled or registered;
- 13 (4) A notarized lien release from any lienholder of record;
- 14 (5) A vehicle examination certificate issued by the Missouri state highway patrol, or
15 other law enforcement agency as authorized by the director of revenue. The vehicle examination

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 shall include a verification of the vehicle's identification number and a determination that the
17 vehicle has not been reported stolen in Missouri or any other state. The fee for the vehicle
18 examination certificate shall be twenty-five dollars and shall be collected by the director of
19 revenue at the time of the request for the application;

20 (6) A statement certifying the odometer reading of the motor vehicle if less than ~~ten~~
21 **twenty** years of age; and

22 (7) A surety bond or a suitable financial security instrument in a form prescribed by the
23 director of revenue and executed by the applicant and a person authorized to conduct surety
24 business in this state. The bond shall be an amount equal to two times the value of the vehicle
25 as determined by the Kelly Blue Book, NADA Used Car Guide or two appraisals from a licensed
26 motor vehicle dealer. The bond shall be for a minimum of one hundred dollars and conditioned
27 to indemnify any prior owner or lienholder and any subsequent purchaser of the vehicle or person
28 acquiring any security interest in it, and their respective successors in interest, against any
29 expense, loss or damage including reasonable attorneys fees, by reason of the issuance of the
30 certificate of ownership of the vehicle or on account of any defect in or undisclosed security
31 interest upon the right, title and interest of the applicant in and to the vehicle. Any such
32 interested person has a right of action to recover on the bond for any breach of its conditions, but
33 the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The
34 bond shall be returned at the end of three years, unless the department has been notified of the
35 pendency of an action to recover on the bond.

36 2. Upon satisfaction with the genuineness of the application and supporting documents,
37 the director of revenue shall issue a new certificate of ownership. The certificate of ownership
38 shall appropriately be designated with the words "BONDED VEHICLE".

301.280. 1. Every motor vehicle dealer and boat dealer shall make a monthly report to
2 the department of revenue, on blanks to be prescribed by the department of revenue, giving the
3 following information: date of the sale of each motor vehicle, boat, trailer and all-terrain vehicle
4 sold; the name and address of the buyer; the name of the manufacturer; year of manufacture;
5 model of vehicle; vehicle identification number; style of vehicle; odometer setting; and it shall
6 also state whether the motor vehicle, boat, trailer or all-terrain vehicle is new or secondhand.
7 Each monthly sales report filed by a motor vehicle dealer who collects sales tax under subsection
8 10 of section 144.070 shall also include the amount of state and local sales tax collected for each
9 motor vehicle sold if sales tax was due. The odometer reading is not required when reporting
10 the sale of any motor vehicle that is ~~ten~~ **twenty** years old or older, any motor vehicle having
11 a gross vehicle weight rating of more than sixteen thousand pounds, new vehicles that are
12 transferred on a manufacturer's statement of origin between one franchised motor vehicle dealer
13 and another, or boats, all-terrain vehicles or trailers. The sale of all temporary permits shall be

14 recorded in the appropriate space on the dealer's monthly sales report, unless the sale of the
15 temporary permit is already recorded by electronic means as determined by the department. The
16 monthly sales report shall include a statement of motor vehicles or trailers sold during the month
17 under subsection 5 of section 301.210. The monthly sales report shall be completed in full and
18 signed by an officer, partner, or owner of the dealership, and actually received by the department
19 of revenue on or before the fifteenth day of the month succeeding the month for which the sales
20 are being reported. If no sales occur in any given month, a report shall be submitted for that
21 month indicating no sales. Any vehicle dealer who fails to file a monthly report or who fails to
22 file a timely report shall be subject to disciplinary action as prescribed in section 301.562 or a
23 penalty assessed by the director not to exceed three hundred dollars per violation. Every motor
24 vehicle and boat dealer shall retain copies of the monthly sales report as part of the records to be
25 maintained at the dealership location and shall hold them available for inspection by appropriate
26 law enforcement officials and officials of the department of revenue. Every vehicle dealer
27 selling twenty or more vehicles a month shall file the monthly sales report with the department
28 in an electronic format. Any dealer filing a monthly sales report in an electronic format shall be
29 exempt from filing the notice of transfer required by section 301.196. For any dealer not filing
30 electronically, the notice of transfer required by section 301.196 shall be submitted with the
31 monthly sales report as prescribed by the director.

32 2. Every dealer and every person operating a public garage shall keep a correct record
33 of the vehicle identification number, odometer setting, manufacturer's name of all motor vehicles
34 or trailers accepted by him for the purpose of sale, rental, storage, repair or repainting, together
35 with the name and address of the person delivering such motor vehicle or trailer to the dealer or
36 public garage keeper, and the person delivering such motor vehicle or trailer shall record such
37 information in a file kept by the dealer or garage keeper. The record shall be kept for five years
38 and be open for inspection by law enforcement officials, members or authorized or designated
39 employees of the Missouri highway patrol, and persons, agencies and officials designated by the
40 director of revenue.

41 3. Every dealer and every person operating a public garage in which a motor vehicle
42 remains unclaimed for a period of fifteen days shall, within five days after the expiration of that
43 period, report the motor vehicle as unclaimed to the director of revenue. Such report shall be on
44 a form prescribed by the director of revenue. A motor vehicle left by its owner whose name and
45 address are known to the dealer or his employee or person operating a public garage or his
46 employee is not considered unclaimed. Any dealer or person operating a public garage who fails
47 to report a motor vehicle as unclaimed as herein required forfeits all claims and liens for its
48 garaging, parking or storing.

49 4. The director of revenue shall maintain appropriately indexed cumulative records of
50 unclaimed vehicles reported to the director. Such records shall be kept open to public inspection
51 during reasonable business hours.

52 5. The alteration or obliteration of the vehicle identification number on any such motor
53 vehicle shall be prima facie evidence of larceny, and the dealer or person operating such public
54 garage shall upon the discovery of such obliteration or alteration immediately notify the highway
55 patrol, sheriff, marshal, constable or chief of police of the municipality where the dealer or
56 garage keeper has his place of business, and shall hold such motor vehicle or trailer for a period
57 of forty-eight hours for the purpose of an investigation by the officer so notified.

58 6. Any person who knowingly makes a false statement or omission of a material fact in
59 a monthly sales report to the department of revenue, as described in subsection 1 of this section,
60 shall be deemed guilty of a class A misdemeanor.

 407.526. 1. A person commits the crime of odometer fraud in the third degree if, with
2 the intent to defraud, he operates a motor vehicle less than ~~ten~~ **twenty** years old on any street
3 or highway knowing that the odometer of the motor vehicle is disconnected or not functioning.

4 2. Odometer fraud in the third degree is a class C misdemeanor.

 407.536. 1. Any person transferring ownership of a motor vehicle previously titled in
2 this or any other state shall do so by assignment of title and shall place the mileage registered on
3 the odometer at the time of transfer above the signature of the transferor. The signature of the
4 transferor below the mileage shall constitute an odometer mileage statement. The transferee
5 shall sign such odometer mileage statement before an application for certificate of ownership
6 may be made. If the true mileage is known to the transferor to be different from the number of
7 miles shown on the odometer or the true mileage is unknown, a statement from the transferor
8 shall accompany the assignment of title which shall contain all facts known by the transferor
9 concerning the true mileage of the motor vehicle. That statement shall become a part of the
10 permanent record of the motor vehicle with the Missouri department of revenue. The department
11 of revenue shall place on all new titles issued after September 28, 1977, a box titled "mileage at
12 the time of transfer".

13 2. Any person transferring the ownership of a motor vehicle previously untitled in this
14 or any other state to another person shall give an odometer mileage statement to the transferee.
15 The statement shall include above the signature of the transferor and transferee the cumulative
16 mileage registered on the odometer at the time of transfer. If the true mileage is known to the
17 transferor to be different from the number of miles shown on the odometer or the true mileage
18 is unknown, a statement from the transferor shall accompany the assignment of title which shall
19 contain all facts known by the transferor concerning the true mileage of the motor vehicle. That
20 statement shall become a permanent part of the records of the Missouri department of revenue.

21 3. If, upon receiving an application for registration or for a certificate of ownership of
22 a motor vehicle, the director of revenue has credible evidence that the odometer reading provided
23 by a transferor is materially inaccurate, he may place an asterisk on the face of the title document
24 issued by the Missouri department of revenue, provided that the process required thereby does
25 not interfere with his obligations under subdivision (2) of subsection 3 of section 301.190. The
26 asterisk shall refer to a statement on the face and at the bottom of the title document which shall
27 read as follows: "This may not be the true and accurate mileage of this motor vehicle. Consult
28 the documents on file with the Missouri department of revenue for an explanation of the
29 inaccuracy.". Nothing in this section shall prevent any person from challenging the
30 determination by the director of revenue in the circuit courts of the state of Missouri. The burden
31 of proof shall be on the director of the department of revenue in all such proceedings.

32 4. The mileage disclosed by the odometer mileage statement for a new or used motor
33 vehicle as described in subsections 1 and 2 of this section shall be placed by the transferor on any
34 title or document evidencing ownership. Additional statements shall be placed on the title
35 document as follows:

36 (1) If the transferor states that to the best of his knowledge the mileage disclosed is the
37 actual mileage of the motor vehicle, an asterisk shall follow the mileage on the face of the title
38 or document of ownership issued by the Missouri department of revenue. The asterisk shall
39 reference to a statement on the face and bottom of the title document which shall read as follows:
40 "Actual Mileage";

41 (2) Where the transferor has submitted an explanation why this mileage is incorrect, an
42 asterisk shall follow the mileage on the face of the title or document of ownership issued by the
43 Missouri department of revenue. The asterisk shall reference to a statement on the face and at
44 the bottom of the title document which shall read as follows: "This is not the true and accurate
45 mileage of this motor vehicle. Consult the documents on file with the Missouri department of
46 revenue for an explanation of the inaccuracy.". Further wording shall be included as follows:

47 (a) If the transferor states that the odometer reflects the amount of mileage in excess of
48 the designed mechanical odometer limit, the above statement on the face of the title document
49 shall be followed by the words: "Mileage exceeds the mechanical limits";

50 (b) If the transferor states that the odometer reading differs from the mileage and that the
51 difference is greater than that caused by odometer calibration error and the odometer reading
52 does not reflect the actual mileage and should not be relied upon, the above statement on the face
53 of the title document shall be preceded by the words: "Warning Odometer Discrepancy".

54 5. The department of revenue shall notify all motor vehicle ownership transferees of the
55 civil and criminal penalties involving odometer fraud.

56 6. Any person defacing or obscuring or otherwise falsifying any odometer reading on any
57 document required by this section shall be guilty of a class E felony.

58 7. The granting or creation of a security interest or lien shall not be considered a change
59 of ownership for the purpose of this section, and the grantor of such lien or security interest shall
60 not be required to make an odometer mileage statement. The release of a lien by a mortgage
61 holder shall not be considered a change of ownership of the motor vehicle for the purposes of
62 this section. The mortgage holder or lienholder shall not be required to make an odometer
63 disclosure statement or state the current odometer setting at the time of the release of the lien
64 where there is no change of ownership.

65 8. For the purposes of the mileage disclosure requirements of this section, if a certificate
66 of ownership is held by a lienholder, if the transferor makes application for a duplicate certificate
67 of ownership, or as otherwise provided in the federal Motor Vehicle Information and Cost
68 Savings Act and related federal regulations, the transferor may execute a written power of
69 attorney authorizing a transfer of ownership. The person granted such power of attorney shall
70 restate exactly on the assignment of title the actual mileage disclosed at the time of transfer. The
71 power of attorney shall accompany the certificate of ownership and the original power of
72 attorney and a copy of the certificate of ownership shall be returned to the issuing state in the
73 manner prescribed by the director of revenue, unless otherwise provided by federal law, rule or
74 regulation. The department of revenue may prescribe a secure document for use in executing a
75 written power of attorney. The department shall collect a fee for each form issued, not to exceed
76 the cost of procuring the form.

 407.556. 1. A violation of the provisions of sections 407.511 to 407.556 by any person
2 licensed or registered as a manufacturer or dealer pursuant to the provisions of chapter 301, shall
3 be considered a violation of the provisions of that chapter, subjecting that person to revocation
4 or suspension of any license issued pursuant to the provisions of that chapter.

5 2. The provisions of sections 407.511 to 407.556 do not apply to the following motor
6 vehicles:

7 (1) Any motor vehicle having a gross vehicle weight rating of more than sixteen
8 thousand pounds;

9 (2) Any motor vehicle that is ~~ten~~ **twenty** years old or older;

10 (3) Any motor vehicle sold directly by the manufacturer to any agency of the United
11 States in conformity with contractual specifications; or

12 (4) Any new vehicle prior to its first transfer for purposes other than resale.

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