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HOUSE BILL NO. 649

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend and reenact § 46.2-112 of the Code of Virginia, relating to vehicle odometer tampering; penalty.*

Patron—Habeeb

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-112 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-112. Tampering with odometer; penalty; civil liability.

A. It shall be unlawful to knowingly cause, either personally or through an agent, the changing, tampering with, disconnection, or nonconnection of any odometer or similar device designed to show by numbers or words the distance which a motor vehicle has traveled or the use it has sustained.

B. It shall be unlawful for any person to sell a motor vehicle if he knows or should reasonably know that the odometer or similar device of the motor vehicle has been changed, tampered with, or disconnected to reflect a lesser mileage or use, unless he gives clear and unequivocal notice of such tampering, etc., or of his reasonable belief thereof, to the purchaser in writing prior to the sale. In a prosecution under this subsection, evidence that a person or his agent has changed, tampered with, disconnected, or failed to connect an odometer or similar device of a motor vehicle shall constitute prima facie evidence of knowledge thereof.

C. It shall be unlawful for any person to advertise for sale, sell, or use any device designed primarily for the purpose of resetting the odometer or similar device of a motor vehicle in any manner.

D. The provisions of this section shall not apply to the following:

1. The changing of odometer or similar device readings registered in the course of predelivery testing of any motor vehicle by its manufacturer prior to its delivery to a dealer.

2. Any necessary repair or replacement of an odometer or similar device, provided that the repaired or replaced odometer or similar device is forthwith set at a reading determined by the reading on the device immediately prior to repair or replacement plus a bona fide estimate of the use of the vehicle sustained between the period when the device ceased to accurately record that use and the time of repair or replacement. *Compliance with the requirements of 49 USC § 32704 of the Federal Odometer Act in the service, repair, or replacement of an odometer shall be deemed compliance with this subdivision.*

3. Passenger vehicles having a capacity in excess of fifteen persons.

4. Trucks having a net weight in excess of 10,000 pounds.

E. Any person convicted of a violation of the provisions of subsections A through D of this section shall, for a first offense, be fined not more than \$10,000 and sentenced to a term of confinement in jail for not more than twelve months, either or both. Any person convicted of a subsequent offense under this section shall be fined not more than \$50,000 and sentenced to a term of confinement in a state correctional facility for not less than one year nor more than five years, either or both, for each offense if the offense is committed with the intent thereby to defraud another. Each violation of this section shall constitute a separate offense.

F. Any person who with intent to defraud violates subsection A or B of this section shall be liable in a civil action in an amount equal to three times the amount of actual damages sustained or \$1,500 \$3,000, whichever is greater. In the case of a successful action to enforce the foregoing liability, the costs of the action, together with reasonable attorney fees as determined by the court, shall be assessed against the person committing the violation. An action under this subsection shall be brought within two years from the date on which liability arises. For the purpose of this subsection, liability arises when the injured party discovers, or with due diligence should have discovered, the violation.

INTRODUCED

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