

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1594

BY: LARASON of the HOUSE

and

EASLEY of the SENATE

AS INTRODUCED

AN ACT RELATING TO MOTOR VEHICLES; AMENDING 22 O.S. 1981, SECTION 152, AS LAST AMENDED BY SECTION 1, CHAPTER 308, O.S.L. 1990 (22 O.S. SUPP. 1990, SECTION 152), WHICH RELATES TO STATUTE OF LIMITATIONS; MODIFYING STATUTE FOR VIOLATIONS OF THE ODOMETER SETTING ACT; AMENDING 15 O.S. 1981, SECTION 753, AS LAST AMENDED BY SECTION 2, CHAPTER 353, O.S.L. 1989 (15 O.S. SUPP. 1990, SECTION 753), WHICH RELATES TO UNLAWFUL PRACTICES UNDER THE OKLAHOMA CONSUMER PROTECTION ACT; ADDING PROHIBITED ACT; AMENDING SECTION 6, CHAPTER 275, O.S.L 1982 (47 O.S. SUPP. 1990, SECTION 12-506), WHICH RELATES TO PENALTIES UNDER THE ODOMETER SETTING ACT; MODIFYING PENALTY; PROVIDING FOR JURISDICTION AND DUTY TO PROSECUTE, AND THE EMPLOYMENT OF PERSONNEL UNDER THE ODOMETER SETTING ACT; CREATING THE MOTOR VEHICLE AND ODOMETER FRAUD REVOLVING FUND; PROVIDING FOR DEPOSITS, EXPENDITURES, PURPOSE AND PROCEDURES RELATED TO SUCH FUND; LEVYING A FEE ON CERTAIN REGISTERED AND LICENSED VEHICLES FOR CERTAIN PURPOSES; PROVIDING PROCEDURES FOR COLLECTION, DEPOSIT, TRANSFER AND USE OF SUCH FEE;

REPEALING SECTION 7, CHAPTER 275, O.S.L. 1982 (47 O.S. SUPP. 1990, SECTION 12-507), WHICH RELATES TO JURISDICTION, VENUE AND DUTY TO PROSECUTE UNDER THE ODOMETER SETTING ACT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 1981, Section 152, as last amended by Section 1, Chapter 308, O.S.L. 1990 (22 O.S. Supp. 1990, Section 152), is amended to read as follows:

Section 152. A. Prosecutions for the crimes of bribery, embezzlement of public money, bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision thereof, or of any misappropriation of public money, bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision thereof, falsification of public records of the state or any county, school district, municipality or other subdivision thereof, and conspiracy to defraud the State of Oklahoma or any county, school district, municipality or other subdivision thereof in any manner or for any purpose shall be commenced within seven (7) years after the discovery of the crime; provided, however, prosecutions for the crimes of embezzlement or misappropriation of public money, bonds, securities, assets or property of any school district, including those relating to student activity funds, or the crime of falsification of public records of any independent school district, the crime of lewd or indecent proposals or acts against children,

pursuant to Section 1123 of Title 21 of the Oklahoma Statutes, the crimes of involving minors in pornography, pursuant to Sections 1021.2 and 1021.3 of Title 21 of the Oklahoma Statutes, the crime of sodomy, the crime of criminal conspiracy, or the crime of embezzlement, pursuant to Sections 1451 through 1462 of Title 21 of the Oklahoma Statutes shall be commenced within five (5) years after the discovery of the crime.

B. Prosecutions for criminal violations of any state income tax laws shall be commenced within five (5) years after the commission of such violation.

C. Prosecutions for the crime of rape or forcible sodomy, pursuant to Sections 888, 1111, 1111.1, 1113 or 1114 of Title 21 of the Oklahoma Statutes, shall be commenced within seven (7) years after the discovery of the crime.

D. Prosecutions for violations of the Odometer Setting Act shall be commenced within seven (7) years after the discovery of the crime.

E. In all other cases a prosecution for a public offense must be commenced within three (3) years after its commission.

SECTION 2. AMENDATORY 15 O.S. 1981, Section 753, as last amended by Section 2, Chapter 353, O.S.L. 1989 (15 O.S. Supp. 1990, Section 753), is amended to read as follows:

Section 753. A. A person engages in a practice which is declared to be unlawful under the Oklahoma Consumer Protection Act when, in the course of his business, he:

1. Represents, knowingly or with reason to know, that the subject of a consumer transaction is of a particular make or brand, when it is of another;

2. Makes a false or misleading representation, knowingly or with reason to know, as to the source, sponsorship, approval, or certification of the subject of a consumer transaction;

3. Makes a false or misleading representation, knowingly or with reason to know, as to affiliation, connection, association with, or certification by another;

4. Makes a false or misleading representation or designation, knowingly or with reason to know, of the geographic origin of the subject of a consumer transaction;

5. Makes a false representation, knowingly or with reason to know, as to the characteristics, ingredients, uses, benefits, alterations, or quantities of the subject of a consumer transaction or a false representation as to the sponsorship, approval, status, affiliation or connection of a person therewith;

6. Represents, knowingly or with reason to know, that the subject of a consumer transaction is original or new if he knows that it is reconditioned, reclaimed, used, or secondhand;

7. Represents, knowingly or with reason to know, that the subject of a consumer transaction is of a particular standard, style or model, if it is of another;

8. Advertises, knowingly or with reason to know, the subject of a consumer transaction with intent not to sell it as advertised;

9. Advertises, knowingly or with reason to know, the subject of a consumer transaction with intent not to supply reasonably expected public demand, unless the advertisement discloses a limitation of quantity;

10. Advertises under the guise of obtaining sales personnel when in fact the purpose is to sell the subject of a consumer transaction to the sales personnel applicants;

11. Makes false or misleading statements of fact, knowingly or with reason to know, concerning the price of the subject of a consumer transaction or the reason for, existence of, or amounts of price reduction;

12. Employs "bait and switch" advertising, which consists of an offer to sell the subject of a consumer transaction which the seller

does not intend to sell, which advertising is accompanied by one or more of the following practices:

- a. refusal to show the subject of a consumer transaction advertised;
- b. disparagement of the advertised subject of a consumer transaction or the terms of sale;
- c. requiring undisclosed tie-in sales or other undisclosed conditions to be met prior to selling the advertised subject of a consumer transaction;
- d. refusal to take orders for the subject of a consumer transaction advertised for delivery within a reasonable time;
- e. showing or demonstrating defective subject of a consumer transaction which the seller knows is unusable or impracticable for the purpose set forth in the advertisement;
- f. accepting a deposit for the subject of a consumer transaction and subsequently charging the buyer for a higher priced item; or
- g. willful failure to make deliveries of the subject of a consumer transaction within a reasonable time or to make a refund therefor upon the request of the purchaser;

13. Conducts a closing out sale without having first obtained a license as required in this act;

14. Resumes the business for which the closing out sale was conducted within one (1) year from the expiration date of the closing out sale license;

15. Falsely states, knowingly or with reason to know, that services, replacements or repairs are needed;

16. Violates any provision of the Oklahoma Health Spa Act; ~~or~~

17. Violates any provision of the Home Repair Fraud Act; or

18. Violates any provision of the Odometer Setting Act.

SECTION 3. AMENDATORY Section 6, Chapter 275, O.S.L. 1982 (47 O.S. Supp. 1990, Section 12-506), is amended to read as follows:

Section 12-506. Any person convicted of violating any of the provisions of the Odometer Setting Act with intent to misrepresent the true mileage driven of a motor vehicle shall be guilty of a ~~misdemeanor~~ felony and shall be punished by a fine of not more than ~~One Thousand Dollars (\$1,000.00)~~ Five Thousand Dollars (\$5,000.00) or imprisonment for not more than ~~one (1) year~~ five (5) years, or by both fine and imprisonment.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 12-507.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Attorney General may institute appropriate criminal proceedings or may direct the case to the appropriate district attorney to institute criminal proceedings.

B. The Attorney General may employ attorneys, investigators, including but not limited to, commissioned officers, and other personnel necessary to enforce and prosecute laws relating to motor vehicle fraud. The Attorney General may use those funds in the Motor Vehicle and Odometer Fraud Revolving Fund created in Section 5 of this act to employ such personnel.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 12-508 of Title 47, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Office of the Attorney General, to be designated the "Motor Vehicle and Odometer Fraud Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received from all monies deposited in said fund pursuant to Section 6 of this act. All monies accruing to the

credit of said fund are hereby appropriated and may be budgeted and expended by the Office of the Attorney General for the purpose of law enforcement and prosecution of motor vehicle fraud, including but not limited to, the enforcement of state and federal odometer laws. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1132.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is levied and there shall be paid to the Motor Vehicle and Odometer Fraud Revolving Fund a fee of Thirty-five Cents (\$0.35) upon every vehicle to be registered or licensed, except for those licensed pursuant to subsection (c) of Section 1210.34 of Title 70 of the Oklahoma Statutes. Said fee shall accrue and shall be collectible upon each vehicle under the same circumstances and shall be payable in the same manner and times as apply to vehicle licenses and registrations under the provisions of the Oklahoma Vehicle License and Registration Act provided said fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year.

B. The monies collected pursuant to this section shall be transferred by the Oklahoma Tax Commission each month to the State Treasurer for deposit in the Motor Vehicle and Odometer Fraud Revolving Fund.

C. The collection and payment of said fee shall be a prerequisite to license or registration of any vehicle, except for those licensed pursuant to subsection (c) of Section 1210.34 of Title 70 of the Oklahoma Statutes.

SECTION 7. REPEALER Section 7, Chapter 275, O.S.L. 1982 (47 O.S. Supp. 1990, Section 12-507), is hereby repealed.

SECTION 8. This act shall become effective July 1, 1991.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-5598

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