

Ohio Revised Code

3704.16 Prohibiting tampering with motor vehicle emission control systems.

(A) As used in sections 3704.16 to [3704.162](#) of the Revised Code:

(1) "Tamper with" means to remove permanently, bypass, defeat, or render inoperative, in whole or part, any emission control system that is installed on or in a motor vehicle.

(2) "Motor vehicle" has the same meaning as in section [4501.01](#) of the Revised Code.

(3) "Emission control system" means any system designated by the United States environmental protection agency as an emission control system under Title II of the "Clean Air Act Amendments." "Emission control system" includes any device or element of design of the system.

(4) "Clean Air Act Amendments" has the same meaning as in section [3704.14](#) of the Revised Code.

(5) Notwithstanding section [3704.01](#) of the Revised Code, "person" has the same meaning as in section [1.59](#) of the Revised Code.

(B) No person shall do any of the following:

(1) Sell, offer for sale, possess for sale, advertise, manufacture, install, or use any part or component intended for use with or as part of any motor vehicle when the primary effect is to bypass, defeat, or render inoperative, in whole or part, the emission control system;

(2) Introduce a leaded fuel into a motor vehicle that is designed, manufactured, or certified by the United States environmental protection agency to use only unleaded fuels;

(3) Tamper with any emission control system installed on or in a motor vehicle prior to its sale and delivery to the ultimate purchaser;

(4) Violate any rule or order the director of environmental protection adopts or issues under section [3704.161](#) of the Revised Code;

(5) Refuse to permit the director or his designee to inspect any motor vehicle or documents as provided in division (A) of section [3704.161](#) of the Revised Code.

The sale, offering for sale, possession for sale, advertisement, manufacture, installation, and use of a part or component in violation of division (B)(1) of this section all constitute separate offenses.

(C) No person shall knowingly do any of the following:

(1) Operate a motor vehicle that has been tampered with if the motor vehicle or motor vehicle engine has been certified by the United States environmental protection agency as meeting federal or California emission control standards;

(2) Sell, lease, rent, or offer to sell, lease, or rent, or transfer or offer to transfer title or a right to possession of a motor vehicle that has been tampered with;

(3) Tamper with any emission control system installed on or in a motor vehicle after sale, lease, or rental and delivery of the vehicle to the ultimate purchaser, lessee, or renter.

The sale, lease, rental, and offer to sell, lease, or rent, and other transfer or offer to transfer of title or a right to possession of a motor vehicle in violation of division (C)(2) of this section all constitute separate offenses.

(D) Division (C)(2) of this section does not apply to either of the following:

(1) Any person who sells, leases, rents, or offers to sell, lease, or rent, or transfers or offers to transfer title or a right to possession of a motor vehicle that has been tampered with if the person is acting as a motor vehicle auction owner, a special auctioneer, or a salvage motor vehicle auction and if the person holds a current and appropriate license to engage in those activities issued under Chapter 4517., 4707., or 4738. of the Revised Code;

(2) The sale, lease, rental, or offer to sell, lease, or rent, or transfer or offer to transfer title or right to possession of a motor vehicle that has been tampered with if the vehicle is titled with a salvage certificate of title issued under section [4505.11](#) of the Revised Code.

(E) Notwithstanding divisions (B)(1) and (3) and (C)(3) of this section, it is not a violation of those divisions if either of the following conditions is met:

(1) The action is taken for the purpose of repair or replacement of the emission control system or is a necessary and temporary procedure to repair or replace any other item on the motor vehicle and the action results in the system's compliance with the "Clean Air Act Amendments";

(2) The action is for the purpose of converting a motor vehicle to use a clean alternative fuel, as defined in Title II of the "Clean Air Act Amendments," the motor vehicle complies with the applicable standard adopted under Section 202 of that act when operating on the fuel, an emission control system is installed or replaced upon completion of the conversion, and the action results in the system's compliance with that act when the motor vehicle operates on the fuel for which it originally was designed.

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3704.162 Rescinding transaction for violation.

(A) For a violation of division (C)(2) or (3) of section [3704.16](#) of the Revised Code, a purchaser, renter, or lessee of a motor vehicle or a person who rents or leases a motor vehicle to a renter or lessee has a cause of action and is entitled to rescission of the transaction, recovery of actual damages, or both. In any action for rescission of the transaction, rescission shall occur within a reasonable amount of time after the purchaser, renter, or lessee or person who rents or leases a motor vehicle to a renter or lessee discovers or should have discovered the grounds for rescission.

(B) For a violation of division (C)(3) of section [3704.16](#) of the Revised Code, a purchaser, renter, or lessee of a motor vehicle or a person who rents or leases a motor vehicle to a renter or lessee may seek a declaratory judgment, an injunction, or other appropriate relief.

(C) In any action brought under division (A) or (B) of this section, the court may award to the prevailing party reasonable attorney's fees limited to the work reasonably performed if either of the following applies:

(1) The purchaser, renter, or lessee or person who rents or leases a motor vehicle to a renter or lessee has brought or maintained a groundless action and has filed the action in bad faith;

(2) The purchaser, renter, or lessee or person who rents or leases a motor vehicle to a renter or lessee has knowingly violated division (C)(3) of section [3704.16](#) of the Revised Code in regard to the violation on which the action is based.

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