



Ohio's Vehicle Anti-Tampering Law: What Auto Dealers Should Know

Tampering with the emissions control systems on a vehicle creates more air pollution and can result in high repair costs. It's also illegal in Ohio. Here's what Ohio used car dealers need to know.

An Ohio law that protects consumers from being sold tampered vehicles became effective in September 1993. It enhanced Ohio EPA's authority to enforce existing tampering-related prohibitions such as selling or installing a device on a vehicle that would damage or bypass any emission control system. The prohibitions in the law apply to vehicles sold "as is" as well as those sold with warranties.

What is tampering?

According to Revised Code section 3704.16, tampering means "to remove permanently, bypass, defeat or render inoperative, in whole or in part, any emission control system that is installed on or in a motor vehicle."

Tampering includes acts such as removing the catalytic converter from a vehicle and installing a straight pipe; removing the substrate from inside the catalytic converter ("cleaning" it out); removing an air pump or disabling the air pump by removing the air pump belt; or installing a non-standard thermostatic air cleaner.

What is illegal in Ohio?

Under state law it is illegal to knowingly sell, lease, rent or operate a vehicle in a tampered condition. Removing a pollution control device from a vehicle is illegal. Likewise, selling or installing a device that would hamper the effectiveness of any vehicle pollution control system is prohibited. Individuals — as well as car dealerships, muffler shops and repair facilities — are prohibited from tampering with a motor vehicle. If you know of someone who has tampered with a vehicle, you may file a complaint with Ohio EPA.

What remedies are available to me if I purchase a tampered vehicle from a wholesaler or auctioneer?

If you purchased a tampered vehicle from a wholesaler in Ohio, you may take independent legal action to rescind the sale and/or recover damages from the seller. In addition, you may file a complaint with Ohio EPA's Mobile Sources Section. If the vehicle was purchased from a wholesaler and an Ohio EPA investigation determines that further violations of the anti-tampering law have occurred, Ohio EPA can take an enforcement action against the wholesaler.

Is there a special procedure I should follow if I want to sell a tampered vehicle to a salvage dealer for parts?

Not if the dealer is a licensed *salvage* dealer. The Bureau of Motor Vehicles only allows individuals with salvage dealer licenses to apply for and receive salvage certificates of title. Vehicles with salvage certificates of title are exempt from the provisions of the anti-tampering law. Be sure that the dealer you sell the tampered vehicle to has a salvage dealer license *and* that he or she intends to obtain a salvage certificate of title for the vehicle. It's a good idea to get this in writing. Following the above procedure will make it clear that you intend to comply with the anti-tampering law.

Is it illegal to sell high-performance vehicles or race vehicles?

Vehicles that are used solely for racing – meaning they are only driven on a track and towed or transported on a trailer to race tracks – may be sold in a modified condition if - and only if - the new owner intends to use the vehicle for racing. It's a good idea to have the buyer sign a statement agreeing that he or she intends to drive the vehicle only on race courses. Staff at the Mobile Sources Section's anti-tampering program can assist you in drafting language for an appropriate statement.

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Vehicles that have been modified and are in a tampered condition cannot be sold if they are driven on the roadways, *even only for a short distance*. This type of vehicle should be returned to the manufacturer's specifications before selling or operating it.

Should I take a tampered vehicle as a customer trade-in for a new vehicle?

No. Because the trade-in transaction is considered a sale, this act would violate the anti-tampering law. If a customer offers you a tampered vehicle in trade, you should tell the customer that the tampered emissions control systems must be repaired prior to accepting the vehicle. You may offer to repair the vehicle – if you have the ability to do so – and work out the repair costs as part of the trade-in agreement.

How can I protect myself from a customer falsely accusing me of selling a tampered vehicle?

In Revised Code Section 3704.162 (C)(1), the law allows reasonable reimbursement of attorney's fees if the court finds the complainant has brought or maintained a groundless action. Reimbursement of attorney fees also may be awarded if the action was filed in bad faith or if the complainant tampered with the vehicle after purchasing the vehicle. To protect yourself from the ramifications of selling, or being accused of selling, a tampered vehicle, you may want to develop a checklist of emission control systems that you and the consumer can go over prior to vehicle purchase.

There are at least three companies in the U.S. that produce manuals containing emission control tables for most makes and models of foreign and domestic vehicles. These manuals are good resources for repair technicians and vehicle dealers concerned about the federal and state anti-tampering laws. You may contact Ohio EPA's Mobile Sources Section for further information about these manuals.

I sold a customer a used vehicle and a few days later the air pump belt fell off. Am I guilty of selling a tampered vehicle because of that belt?

A deteriorated air pump belt is considered a malmaintained item and not a tampered item because the belt was present at the time of sale – even though it probably was in poor condition. The new owner is responsible for replacement cost of this item if it's not under warranty.

Another situation that might be considered malmaintainance is a converter that has lost its effectiveness. If the converter is still on the vehicle and it has not been hollowed or cleaned out, it would not be considered tampered. If the converter interior has been removed, the vehicle is tampered. If a converter has been jarred by a rock rendering the inside components inoperative, this would be considered malmaintenance.

Someone came onto my car lot in the middle of the night and cut off and stole quite a few catalytic converters. Since the cost to replace all of them is quite high, may I just put straight pipes on them and sell them "as-is"?

No. That action would be considered illegal on a state and federal level for the act of tampering and again on a state level for selling tampered vehicles. In order to sell these vehicles in the state of Ohio, you would need to have catalytic converters installed on each vehicle.

More Information

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