

Title 4. Business and Commercial Law

Chapter II. Generally, Department of Finance and Administration

Subchapter A. Generally

Part 10. Motor Vehicle Odometer Disclosure Requirements

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Pursuant to his authority under Act 795 of 1995, Ark. Code Ann. § 4-90-201 et seq. (1987) and Act 142 of 1949, as amended, Ark. Code Ann. § 27-14-101 et seq. (1987), the Commissioner of Revenues for the State of Arkansas does hereby promulgate the following regulations. The regulations are an adoption of NHTSA Odometer Disclosure Requirements, 49 CFR § 580.1 et seq. which were promulgated under 15 U.S.C. § 1981 et seq. as amended. This regulation supersedes Motor Vehicle Regulation 1992-1."

Subpart 1. Generally

4 CAR § 10-101. Purpose.

(a) The purpose of this part is to provide purchasers of motor vehicles with odometer information to assist them in determining a vehicle's condition and value by:

- (1) Making the disclosure of a vehicle's mileage a condition of title; and
- (2) Requiring lessees to disclose to their lessors the vehicle's mileage at the

time the lessors transfer the vehicle.

(b) In addition, the purpose of this part is to preserve records that are needed for the proper investigation of possible violations of:

- (1) The Motor Vehicle Information and Cost Savings Act, 49 U.S.C. §§ 32908, 32912 – 32913, and 32918, and 42 U.S.C. § 6363; and

- (2) Any subsequent prosecutorial, adjudicative, or other action.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-102. Definitions.

As used in this part:

(1) "Lessee" means any person, or the agent for any person, to whom a motor vehicle has been leased for a term of at least four (4) months;

(2) "Lessor" means any person, or the agent for any person, who has leased five (5) or more motor vehicles to a lessee in the past twelve (12) months;

(3) "Mileage" means actual distance that vehicle has traveled;

(4) "Motor vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks except snowmobiles and other devices:

(A) Designed and used primarily for the transportation of persons over:

(i) Natural terrain;

(ii) Snow; or

(iii) Ice; and

(B) Propelled by:

(i) Wheels;

(ii) Skies;

(iii) Tracks;

(iv) Runners; or

(v) Whatever other means;

(5)(A) "Owner" means a person, other than a secured party, having the property in or title to a vehicle.

(B) The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security;

(6) "Person" means:

(A) An individual;

(B) A firm;

(C) A partnership;

(D) An agent for the person;

- (E) An incorporated and unincorporated association; or
- (F) Any other legal or commercial entity;

(7) "Secure printing process or other secure process" means any process which:

- (A) Deters and detects:
 - (i) Counterfeiting; and/or
 - (ii) Unauthorized reproduction; and
- (B) Allows alterations to be visible to the naked eye;

(8) "Transferee" means any person:

- (A) To whom ownership of a motor vehicle is transferred by purchase, gift, or any means other than by the creation of a security interest; and
- (B) Who, as agent, signs an odometer disclosure statement for the transferee; and

(9) "Transferor" means any person who:

- (A) Transfers his or her ownership of a motor vehicle by sale, gift, or any means other than by the creation of a security interest; and
- (B) As agent, signs an odometer disclosure statement for the transferor.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-103. Security of title documents and power of attorney forms.

(a) Each title shall be set forth by means of a secure printing process or other secure process.

(b) In addition, power of attorney forms issued pursuant to 4 CAR § 10-109 and documents which are used to reassign the title shall be:

- (1) Issued by the state; and
- (2) Set forth by a secure process.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-104. Disclosure of odometer information.

(a) Each title, at the time it is issued to the transferee, must contain:

(1) The mileage disclosed by the transferor when ownership of the vehicle was transferred; and

(2) A space for the information required to be disclosed under subsections (c), (d), (e), and (f) of this section at the time of future transfer.

(b) Any documents which are used to reassign a title shall contain a space for the information required to be disclosed under subsections (c), (d), (e), and (f) of this section at the time of transfer of ownership.

(c)(1) In connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the:

(A) Title; or

(B) Document being used to reassign the title.

(2)(A) This written disclosure must be signed by the transferor, including the printed name.

(B) In connection with the transfer of ownership of a motor vehicle in which more than one (1) person is a transferor, only one (1) transferor need sign the written disclosure.

(3) In addition to the signature and printed name of the transferor, the written disclosure must contain the following information:

(A) The odometer reading at the time of transfer (not to include tenths of miles);

(B) The date of transfer;

(C) The transferor's:

(i) Name; and

(ii) Current address;

(D) The transferee's:

(i) Name; and

(ii) Current address; and

(E) The identity of the vehicle, including its:

- (i) Make;
- (ii) Model;
- (iii) Year;
- (iv) Body type; and
- (v) Vehicle identification number.

(d)(1) In addition to the information provided under subsection (c) of this section, the statement shall:

- (A) Refer to the federal law; and
- (B) State that failure to complete or providing false information may result

in:

- (i) Fines; and/or
- (ii) Imprisonment.

(2) Reference may also be made to applicable state law.

(e) In addition to the information provided under subsections (c) and (d) of this section:

(1) The transferor shall certify that to the best of his or her knowledge the odometer reading reflects the actual mileage;

(2) If the transferor knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit, he or she shall include a statement to that effect; or

(3)(A) If the transferor knows that the odometer reading differs from the mileage and that the difference is greater than that caused by odometer calibration error, he or she shall include a statement that the odometer reading:

- (i) Does not reflect the actual mileage; and
- (ii) Should not be relied upon.

(B) This statement shall also include a warning notice to alert the transferee that discrepancy exists between the odometer reading and the actual mileage.

(f) The transferee shall:

- (1) Sign the disclosure statement;
- (2) Print his or her name; and
- (3) Return a copy to his or her transferor.

(g) If the vehicle has not been titled or if the title does not contain a space for the information required, the written disclosure shall be executed as a separate document.

(h) No person shall sign an odometer disclosure statement as both the transferor and transferee in the same transaction, unless permitted by 4 CAR §§ 10-109 or 110.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-105. Exemptions.

Notwithstanding the requirements of 4 CAR §§ 10-104 and 106:

(1) A transferor or a lessee of any of the following motor vehicles need not disclose the vehicle's odometer mileage:

(A) A vehicle having a gross vehicle weight rating, as defined in 49 CFR § 571.3, of more than sixteen thousand pounds (16,000 lbs);

(B) A vehicle that is not self-propelled;

(C) A vehicle that is ten (10) years old or older; or

(D) A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications;

(2) A transferor of a new vehicle prior to its first transfer for purposes other than resale need not disclose the vehicle's odometer mileage; and

(3) A lessor of any of the vehicles listed in subdivision (1) of this section need not notify the lessee of any of these vehicles of the disclosure requirements of 4 CAR § 10-106.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-106. Disclosure of odometer information for leased motor vehicles.

(a)(1) Before executing any transfer of ownership document, each lessor of a leased motor vehicle shall notify the lessee in writing that the lessee is required to provide a written disclosure to the lessor regarding the mileage.

(2) This note shall:

(A) Contain a reference to the federal law; and

(B) State that failure to complete or providing false information may result

in:

(i) Fines; and/or

(ii) Imprisonment.

(3) Reference may also be made to applicable state law.

(b)(1) In connection with the transfer of ownership of the leased motor vehicle, the lessee shall furnish to the lessor a written statement regarding the mileage of the vehicle.

(2) This statement must be signed by the lessee and, in addition to the information required by subsection (a) of this section, shall contain the following information:

(A) The printed name of the person making the disclosure;

(B) The current odometer reading (not to include tenths of miles);

(C) The date of the statement;

(D) The lessee's:

(i) Name; and

(ii) Current address;

(E) The lessor's:

(i) Name; and

(ii) Current address;

(F) The identity of the vehicle, including its:

(i) Make;

(ii) Model;

(iii) Year;

(iv) Body type; and

(v) Vehicle identification number;
(G) The date that the lessor notified the lessee of disclosure requirements;
(H) The date that the completed disclosure statement was received by the lessor; and

(I) The signature of the lessor.

(c) In addition to the information provided under subsections (a) and (b) of this section:

(1) The lessee shall certify that to the best of his or her knowledge the odometer reading reflects the actual mileage;

(2) If the lessee knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit, he or she shall include a statement to that effect; or

(3) If the lessee knows that the odometer reading differs from the mileage and that the difference is greater than that caused by odometer calibration error, he or she shall include a statement that the odometer reading:

(A) Is not the actual mileage; and

(B) Should not be relied upon.

(d) If the lessor transfers the leased vehicle without obtaining possession of it, the lessor may indicate on the title the mileage disclosed by the lessee under subsections (b) and (c) of this section, unless the lessor has reason to believe that the disclosure by the lessee does not reflect the actual mileage of the vehicle.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-107. Odometer disclosure statement retention.

(a)(1) Dealers and distributors of motor vehicles who are required to execute an odometer disclosure statement shall retain for five (5) years a photostat, carbon, or other facsimile copy of each odometer mileage statement which they issue and receive.

(2) They shall retain all odometer disclosure statements at their primary place of business in an order that:

- (A) Is appropriate to business requirements; and
- (B) Permits systematic retrieval.

(b)(1) Lessors shall retain for five (5) years following the date they transfer ownership of the leased vehicle, each odometer disclosure statement which they received from a lessee.

(2) They shall retain all odometer disclosure statements at their primary place of business in an order that:

- (A) Is appropriate to business requirements; and
- (B) Permits systematic retrieval.

(c)(1) Dealers and distributors of motor vehicles who are granted a power of attorney by their transferor pursuant to 4 CAR § 10-109, or by their transferee pursuant to 4 CAR § 10-110, shall retain for five (5) years a photostat, carbon, or other facsimile copy of each power of attorney that they receive.

(2) They shall retain all powers of attorney at their primary place of business in an order that:

- (A) Is appropriate to business requirements; and
- (B) Permits systematic retrieval.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-108. Odometer record retention for auction companies.

Each auction company shall establish and retain at its primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval, for five (5) years following the date of the sale of each motor vehicle, the following records:

- (1) The name of the most recent owner (other than the auction company);
- (2) The name of the buyer;
- (3) The vehicle identification number; and
- (4) The odometer reading on the date which the auction company took possession of the motor vehicle.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-109. Disclosure of odometer information by power of attorney.

(a)(1) If the transferor's title is physically held by a lienholder, or if the transferor to whom the title was issued by the state has lost his or her title and the transferee obtains a duplicate title on behalf of the transferor, and if otherwise permitted by state law, the transferor may give a power of attorney to his or her transferee for the purpose of mileage disclosure.

(2) The power of attorney shall:

(A) Be on a form issued by the state to the transferee that is set forth by means of a secure printing process or other secure process; and

(B) Contain, in part A, a space for the information required to be disclosed under subsections (b), (c), (d), and (e) of this section.

(3) If a state permits the use of a power of attorney in the situation described in 4 CAR § 10-110(a), the form must also contain, in:

(A) Part B, a space for the information required to be disclosed under 4 CAR § 10-110; and

(B) Part C, a space for the certification required to be made under 4 CAR § 10-111.

(b)(1) In connection with the transfer of ownership of a motor vehicle, each transferor to whom a title was issued by the state whose title is physically held by a lienholder or whose title has been lost, and who elects to give his or her transferee a power of attorney for the purpose of mileage disclosure, must:

(A) Appoint the transferee his or her attorney-in-fact for the purpose of mileage disclosure; and

(B) Disclose the mileage on the power of attorney form issued by the state.

(2) This written disclosure must be signed by the transferor, including the printed name, and contain the following information:

(A) The odometer reading at the time of transfer (not to include tenths of miles);

(B) The date of transfer;

(C) The transferor's:

(i) Name; and

(ii) Current address;

(D) The transferee's:

(i) Name; and

(ii) Current address; and

(E) The identity of the vehicle, including its:

(i) Make;

(ii) Model;

(iii) Year;

(iv) Body type; and

(v) Vehicle identification number.

(c)(1) In addition to the information provided under subsection (b) of this section, the power of attorney form shall:

(A) Refer to the federal odometer law; and

(B) State that providing false information or the failure of the person granted the power of attorney to submit the form to the state may result in:

(i) Fines; and/or

(ii) Imprisonment.

(2) Reference may also be made to applicable state law.

(d) In addition to the information provided under subsections (b) and (c) of this section:

(1) The transferor shall certify that to the best of his or her knowledge the odometer reading reflects the actual mileage;

(2) If the transferor knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit, he or she shall include a statement to that effect; or

(3)(A) If the transferor knows that the odometer reading differs from the mileage and that the difference is greater than that caused by a calibration error, he or she shall include a statement that the odometer reading:

- (i) Does not reflect the actual mileage; and
- (ii) Should not be relied upon.

(B) This statement shall also include a warning notice to alert the transferee that a discrepancy exists between the odometer reading and the actual mileage.

(e) The transferee shall:

- (1) Sign the power of attorney form;
- (2) Print his or her name; and
- (3) Return a copy of the power of attorney form to the transferor.

(f)(1) Upon receipt of the transferor's title, the transferee shall complete the space for mileage disclosure on the title exactly as the mileage was disclosed by the transferor on the power of attorney form.

(2) The transferee shall submit the original power of attorney form to the state that issued it, with the application for:

- (A) New title; and
- (B) The transferor's title.

(3) If the mileage disclosed on the power of attorney form is lower than the mileage appearing on the title, the:

- (A) Power of attorney is void; and
- (B) Dealer shall not complete the mileage disclosure on the title.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-110. Power of attorney to review title documents and acknowledge disclosure.

(a)(1) In circumstances where part A of a secure power of attorney form has been used pursuant to 4 CAR § 10-109, and if otherwise permitted by state law, a transferee may give a power of attorney to his or her transferor to review the title and any reassignment documents for mileage discrepancies, and if no discrepancies are found, to acknowledge disclosure on the title.

(2) The power of attorney shall be on part B of the form referred to in 4 CAR § 10-109(a), which shall contain a space for the:

(A) Information required to be disclosed under subsections (b), (c), (d), and (e) of this section; and

(B) In part C, a space for the certification required to be made under 4 CAR § 10-111.

(b) The power of attorney must:

(1) Include a mileage disclosure from the transferor to the transferee;

(2) Be signed by the transferor, including the printed name; and

(3) Contain the following information:

(A) The odometer reading at the time of transfer (not to include tenths of miles);

(B) The date of transfer;

(C) The transferor's:

(i) Name; and

(ii) Current address;

(D) The transferee's:

(i) Name; and

(ii) Current address; and

(E) The identity of the vehicle, including its:

(i) Make;

(ii) Model;

(iii) Year;

- (iv) Body type; and
- (v) Vehicle identification number.

(c)(1) In addition to the information provided under subsection (b) of this section, the power of attorney form shall:

(A) Refer to the federal odometer law; and

(B) State that providing false information or the failure of the person granted the power of attorney to submit the form to the state may result in:

- (i) Fines; and/or
- (ii) Imprisonment.

(2) Reference may also be made to applicable state law.

(d) In addition to the information provided under subsections (b) and (c) of this section:

(1) The transferor shall certify that to the best of his or her knowledge the odometer reading reflects the actual mileage;

(2) If the transferor knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit, he or she shall include a statement to that effect; or

(3)(A) If the transferor knows that the odometer reading differs from the mileage and that the difference is greater than that caused by a calibration error, he or she shall include a statement that the odometer reading:

- (i) Is not the actual mileage; and
- (ii) Should not be relied upon.

(B) This statement shall also include a warning notice to alert the transferee that a discrepancy exists between the odometer reading and the actual mileage.

(e) The transferee shall sign the power of attorney form and print his or her name.

(f) The transferor shall give a copy of the power of attorney form to his or her transferee.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-111. Certification by person exercising powers of attorney.

(a)(1) A person who exercises a power of attorney under both 4 CAR §§ 10-109 and 110 must complete a certification that:

(A) He or she has disclosed on the title document the mileage as it was provided to him or her on the power of attorney form; and

(B) Upon examination of the title and any reassignment documents, the mileage disclosure he or she has made on the title pursuant to the power of attorney is greater than that previously stated on the title and reassignment documents.

(2) This certification shall:

(A) Be under part C of the same form as the power of attorney executed under 4 CAR §§ 10-109 and 110; and

(B) Include:

(i) The signature and printed name of the person exercising the power of attorney;

(ii) The address of the person exercising the power of attorney; and

(iii) The date of the certification.

(b) If the mileage reflected by the transferor on the power of attorney is less than that previously stated on the title and any reassignment documents, the power of attorney shall be void.

Authority. Arkansas Code § 4-90-206.

4 CAR § 10-112. Access of transferee to prior title and power of attorney documents.

(a) In circumstances in which a power of attorney has been used pursuant to 4 CAR § 10-109, if a subsequent transferee elects to return to his or her transferor to sign the disclosure on the title when the transferor obtains the title and does not give his or her transferor a power of attorney to review the title and reassignment documents,

upon the transferee's request, the transferor shall show to the transferee a copy of the power of attorney that he or she received from transferor.

(b) Upon request of a purchaser, a transferor who was granted a power of attorney by his or her transferor and who holds the title to the vehicle in his or her own name, must show to the purchaser the copy of the previous owner's:

- (1) Title; and
- (2) Power of attorney form.

Authority. Arkansas Code § 4-90-206.