

Public Law 94-364

94th Congress

An Act

To amend the Motor Vehicle Information and Cost Savings Act to authorize appropriations, to require the establishment of a special motor vehicle diagnostic inspection demonstration project, to provide additional authority for enforcing prohibitions against motor vehicle odometer tampering, and for other purposes.

July 14, 1976
[S. 1518]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Motor Vehicle Information and Cost Savings Act Amendments of 1976".

Motor Vehicle
Information and
Cost Savings Act
Amendments of
1976.
15 USC 1901
note.

TITLE I—AMENDMENT TO TITLE I

SEC. 101. Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 111. There are authorized to be appropriated to carry out this title \$125,000 for the fiscal year ending June 30, 1976; \$75,000 for the period beginning July 1, 1976, and ending September 30, 1976; \$130,000 for the fiscal year ending September 30, 1977; and \$395,000 for the fiscal year ending September 30, 1978."

TITLE II—AMENDMENTS TO TITLE II

SEC. 201. Section 201(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941(d)) is amended by inserting at the end thereof the following: "The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection."

Compilation of
information,
distribution rule.

SEC. 202. Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 209. There are authorized to be appropriated to carry out this title \$1,875,000 for the fiscal year ending June 30, 1976; \$500,000 for the period beginning July 1, 1976, and ending September 30, 1976; \$3,385,000 for the fiscal year ending September 30, 1977; and \$3,375,000 for the fiscal year ending September 30, 1978."

TITLE III—AMENDMENTS TO TITLE III

SEC. 301. Section 303 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1963) is amended—

- (1) by striking out "June 30, 1976" in subsection (b) and inserting in lieu thereof "September 30, 1977"; and
- (2) by adding at the end thereof the following new subsection:

Motor vehicle
diagnostic
inspection
demonstration
projects,
assistance.

"(c) The Secretary shall approve such applications and take such other action as may be necessary to provide that at least three motor vehicle diagnostic inspection demonstration projects receive financial assistance under grants under this part through September 30, 1977."

SEC. 302. Section 311 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1963a) is amended to read as follows:

"FUEL EFFICIENCY

"SEC. 311. (a) The Secretary shall establish a special motor vehicle diagnostic inspection demonstration project to assist in the research, rapid development, and evaluation of advanced inspection, analysis, and diagnostic equipment suitable for use by any State in any high volume inspection facility designed to assess the safety, noise, emissions, and fuel efficiency of motor vehicles. Motor vehicles shall be inspected at such project for purposes of (1) evaluating the conditions of parts, components, and repairs which may be necessary to comply with State and Federal safety, noise, and emissions standards, and (2) assisting the motor vehicle owner in achieving optimum fuel and maintenance economy.

Evaluation.
Report to
Congress.

"(b) The Secretary shall evaluate, to the extent feasible, the existing diagnostic analysis and test equipment available for use in small automotive repair establishments and report to the Congress, within two years after the enactment of the Motor Vehicle Information and Cost Savings Act Amendments of 1976, as to the scope of research and development required to make such equipment compatible with State motor vehicle inspection and diagnostic equipment. The report shall assess the extent to which private industry can supply small automotive repair shops with low-cost test equipment which can be used to monitor compliance with Federal safety, noise, and emissions standards promulgated by the Secretary, the Administrator of the Environmental Protection Agency, and by State or local regulatory agencies.

"(c) In carrying out this section, the Secretary shall provide—

EPA
Administrator,
assistance.

"(1) the Administrator of the Environmental Protection Agency with an opportunity to assist, to the extent such assistance relates to noise and emissions, in the establishment of the special motor vehicle diagnostic inspection demonstration project under subsection (a) and the evaluation of existing diagnostic and test equipment under subsection (b); and

FEA
Administrator,
assistance.

"(2) the Administrator of the Federal Energy Administration with an opportunity to assist, to the extent such assistance relates to fuel efficiency, in the establishment of such project and the evaluation of such equipment."

SEC. 303. Section 321 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1964) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 321. There are authorized to be appropriated to carry out this title \$5,000,000 for the fiscal year ending June 30, 1976; \$500,000 for the period beginning July 1, 1976, and ending September 30, 1976;

\$7,500,000 for the fiscal year ending September 30, 1977; and \$4,400,000 for the fiscal year ending September 30, 1978. Sums appropriated under this section shall remain available until expended.”

TITLE IV—AMENDMENTS TO TITLE IV

SEC. 401. Section 402 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1982) is amended by—

(1) redesignating paragraphs (1), (2), and (3) as paragraphs (3), (4), and (5), respectively; and

(2) inserting before paragraph (3), as redesignated, the following new paragraphs:

“(1) The term ‘dealer’ means any person who has sold 5 or more motor vehicles in the past 12 months to purchasers who in good faith purchase such vehicles for purposes other than resale.

“Dealer.”

“(2) The term ‘distributor’ means any person who has sold 5 or more vehicles in the past 12 months for resale.”

“Distributor.”

SEC. 402. The first sentence of section 403 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1983) is amended to read as follows: “No person shall advertise for sale, sell, use, or install or cause to be installed, any device which causes an odometer to register any mileage other than the true mileage driven.”

Odometers.

SEC. 403. Section 404 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1984) is amended to read as follows:

“UNLAWFUL CHANGE OF MILEAGE

“SEC. 404. No person shall disconnect, reset, or alter or cause to be disconnected, reset, or altered, the odometer of any motor vehicle with intent to change the number of miles indicated thereon.”

SEC. 404. Section 405 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1985) is amended to read as follows:

“OPERATION WITH INTENT TO DEFRAUD

“SEC. 405. No person shall, with intent to defraud, operate a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional.”

SEC. 405. Section 407 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1987) is amended by (1) inserting “(a)” immediately after “SEC. 407.”; (2) striking out the last sentence thereof; and (3) adding at the end thereof the following new subsection:

“(b)(1) No person shall fail to adjust an odometer or affix a notice regarding such adjustment as required pursuant to subsection (a) of this section.

“(2) No person shall, with intent to defraud, remove or alter any notice affixed to a motor vehicle pursuant to subsection (a) of this section.”

SEC. 406. Section 408(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(b)) is amended to read as follows:

"(b) No transferor shall violate any rule prescribed under this section or give a false statement to a transferee in making any disclosure required by such rule.

"(c) No transferee who, for purposes of resale, acquires ownership of a motor vehicle shall accept any written disclosure required by any rule prescribed under this section if such disclosure is incomplete."

SEC. 407. Section 410 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990) is amended to read as follows:

"INJUNCTIVE ENFORCEMENT"

Jurisdiction.

28 USC app.

"SEC. 410. (a) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this title, or rules, regulations, or orders issued thereunder. Such actions may be brought by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found, is an inhabitant, or transacts business. In any action brought under this section, process may be served on a defendant in any other district in which the defendant resides or may be found.

Subpenas.

"(b) In any action brought under this title, subpoenas for witnesses who are required to attend a United States district court may run into any other district."

SEC. 408. Title IV of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1981 et seq.) is amended by—

15 USC 1991,
1981 notes.

(1) redesignating sections 411, 412, and 413 as sections 418, 419, and 420, respectively; and

15 USC 1990.

(2) inserting immediately after section 410 the following new sections:

"STATE ENFORCEMENT"

15 USC 1990a.

"SEC. 411. (a) If any person violates any requirement imposed under this title, the chief law enforcement officer of the State in which such violation occurred may bring any action to—

"(1) restrain such violation; or

15 USC 1989.

"(2) recover amounts for which such person is liable under section 409 to each person on whose behalf such action is brought.

"(b) Any action under subsection (a) of this section may be brought within two years from the date on which the liability arises—

"(1) without regard to the amount in controversy, in any appropriate district court of the United States, or

"(2) in any court of competent jurisdiction of any State.

"CIVIL PENALTY"

15 USC 1990b.

"SEC. 412. (a) Any person who commits any act or causes to be done any act that violates any provision of this title or omits to do any act or causes to be omitted any act that is required by any such provision shall be subject to a civil penalty not to exceed \$1,000 for each such violation. A violation of any such provision shall, for purposes of this section, constitute a separate violation with respect to each motor vehicle or device involved, except that the maximum civil penalty shall not exceed \$100,000 for any related series of violations.

“(b) Any civil penalty under this section shall be assessed by the Secretary and collected in a civil action brought by the Attorney General on behalf of the United States. Before referral of civil penalty claims to the Attorney General, civil penalties may be compromised by the Secretary after affording the person charged with a violation of any section of this title an opportunity to present views and evidence in support thereof to establish that the alleged violation did not occur. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

“CRIMINAL PENALTIES

“SEC. 413. (a) Any person who knowingly and willfully commits any act or causes to be done any act that violates any provision of this title or knowingly and willfully omits to do any act or causes to be omitted any act that is required by any such provision shall be fined not more than \$50,000 or imprisoned not more than one year, or both. 15 USC 1990c.

“(b) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of any section of this title shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under subsection (a).

“INSPECTIONS AND INVESTIGATIONS

“SEC. 414. (a)(1) The Secretary is authorized to conduct any inspection or investigation necessary to enforce this title or any rules, regulations, or orders issued thereunder. Information obtained indicating noncompliance with this title or any rules, regulations, or orders issued thereunder, may be referred to the Attorney General for investigative consideration. In making investigations under this paragraph, the Secretary shall cooperate with appropriate State and local officials to the greatest extent possible consistent with the purposes of this subsection. 15 USC 1990d.

“(2) For purposes of carrying out paragraph (1) of this subsection, officers or employees duly designated by the Secretary, upon stating their purpose and presenting appropriate credentials and written notice (which notice may consist of an administrative inspection warrant) to the owner, operator, or agent in charge, are authorized at reasonable times and in a reasonable manner—

“(A) to enter (i) any factory, warehouse, establishment, or other commercial premises in or on which motor vehicles or items of motor vehicle equipment are manufactured, held for shipment or sale, maintained, or repaired, or (ii) any noncommercial premises in or on which the Secretary reasonably believes that there is a motor vehicle or item of motor vehicle equipment that has been the object of a violation of this title; Cooperation.

Impoundment.

"(B) to impound, for a period not to exceed 72 hours, for purposes of inspection, any motor vehicle or item of motor vehicle equipment that the Secretary reasonably believes to have been the object of a violation of this title; and

"(C) to inspect any factory, warehouse, establishment, premises, vehicle, or equipment referred to in subparagraph (A) or (B) of this paragraph.

Each inspection or impoundment under this paragraph shall be commenced and completed with reasonable promptness.

Compensation.

"(3) Whenever, under the authority of paragraph (2) (B) of this subsection, the Secretary impounds for the purpose of inspection any motor vehicle (other than a vehicle subject to part II of the Interstate Commerce Act) or any item of motor vehicle equipment, he shall pay reasonable compensation to the owner of such vehicle or equipment to the extent that such inspection or impounding results in the denial of the use of the vehicle or equipment to its owner or in the reduction in value of the vehicle or equipment.

49 USC 301.

"(b) For the purpose of enabling the Secretary to determine whether any dealer or distributor has acted or is acting in compliance with this title or any rules, regulations, or orders issued thereunder, each dealer and distributor shall—

Record maintenance.

"(1) maintain such records as the Secretary may reasonably require to make such determination;

"(2) permit an officer or employee duly designated by the Secretary, upon request of such officer or employee, to inspect appropriate books, papers, records, and documents relevant to making such determination; and

"(3) provide such officer or employee information from records required to be maintained under this subsection as the Secretary finds necessary for such determination if the Secretary (A) provides the reason or purpose for requiring such information, and (B) identifies to the fullest extent practicable such information.

Nothing in this subsection authorizes the Secretary to require a dealer or distributor to provide information on a regular periodic basis.

Hearings.

"(c) (1) For the purpose of carrying out the provisions of this title, the Secretary or, with the authorization of the Secretary, any officer or employee of the Department of Transportation may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such officer or employee, deems advisable.

Documentary evidence, access.

"(2) In order to carry out the provisions of this title, the Secretary or his duly authorized agent shall at all reasonable times have access to, and for the purposes of examination the right to copy, any documentary evidence of any person having materials or information relevant to any function of the Secretary under this title.

Reports and answers, filing.

"(3) Except to the extent inconsistent with the last sentence of subsection (b) of this section, the Secretary is authorized to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this title. Such reports and answers shall be under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe.

"(4) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena or order of the Secretary or such officer or employee issued under paragraph (1) or (3) of this subsection, issue an order requiring compliance therewith, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(5) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage which are paid witnesses in the courts of the United States.

Witness fees.

"(d) All information reported to or otherwise obtained by the Secretary or his representative under this title, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

Information confidentiality.

"ADMINISTRATIVE WARRANTS

"Sec. 415. (a) A warrant under this section shall be required for any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment) authorized by section 414 of this Act, except if such entry or inspection is—

15 USC 1990e.

Ante, p. 985.

"(1) with the consent of the owner, operator, or agent in charge of the factory, warehouse, establishment, or premises;

"(2) in situations involving inspection of motor vehicles where there is reasonable cause to believe that the mobility of the motor vehicle makes it impracticable to obtain a warrant;

"(3) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

"(4) for access to and examination of books, records, and any other documentary evidence pursuant to section 414(c)(2); or

"(5) in any other situations where a warrant is not constitutionally required.

"(b) Issuance and execution of administrative inspection warrants shall be as follows:

Issuance and execution.

"(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by section 414 and of impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections. For the purposes of this section, the term 'probable cause' means a valid public interest in the effective enforcement of this title or regulations issued thereunder sufficient to justify administrative inspections of the area, factory, warehouse, establishment, premises, or motor vehicle, or contents thereof, in the circumstances specified in the application for the warrant.

"Probable cause."

"(2) A warrant shall be issued only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist, he shall issue a warrant identifying the area, factory, warehouse, establishment, premises, or motor vehicle to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall—

"(A) identify the items or type of property to be impounded, if any;

Ante, p. 985.

"(B) be directed to a person authorized under section 414 to execute it;

"(C) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

"(D) command the person to whom it is directed to inspect the area, factory, warehouse, establishment, premises, or motor vehicle identified for the purpose specified, and, where appropriate, shall direct the impoundment of the property specified;

"(E) direct that it be served during the hours specified in it; and

"(F) designate the judge or magistrate to whom it shall be returned.

"(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing by the Secretary of a need therefor, the judge or magistrate allows additional time in the warrant. If property is impounded pursuant to a warrant, the person executing the warrant shall give the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

Impounded
property.

Inventory.

Filing.

"(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

"PROHIBITED ACTS

15 USC 1990f.
Ante, p. 985.

"SEC. 416. No person shall fail to comply with the requirements of section 414 to maintain records, make reports, provide information, permit access to or copying of records, permit entry or inspection, or permit impounding.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 417. There are authorized to be appropriated to carry out this title \$450,000 for the fiscal year ending June 30, 1976; \$100,000 for the period beginning July 1, 1976, and ending September 30, 1976; \$650,000 for the fiscal year ending September 30, 1977; and \$562,000 for the fiscal year ending September 30, 1978." 15 USC 1990g.

Approved July 14, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-764 accompanying H.R. 10807 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 94-155 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 5, considered and passed Senate.

Vol. 122 (1976): Jan. 22, considered and passed House, amended, in lieu of H.R. 10807.

June 29, Senate agreed to House amendments with amendments.

July 1, House concurred in Senate amendments.