

[First Reprint]

ASSEMBLY, No. 2025

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED FEBRUARY 5, 2004

Sponsored by:

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District 32 (Bergen and Hudson)

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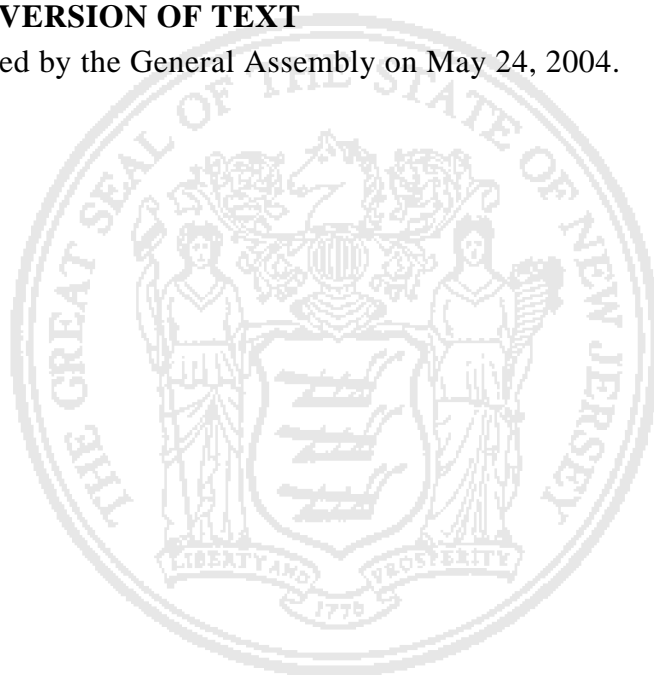
District 33 (Hudson)

SYNOPSIS

Requires a dealer to disclose missing or defective emission control equipment in a used motor vehicle under certain circumstances, and exempts certain motor vehicles from regulation.

CURRENT VERSION OF TEXT

As amended by the General Assembly on May 24, 2004.



1 AN ACT concerning the sale of certain used motor vehicles and
2 amending P.L.1995, c.373.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.1995, c.373 (C.56:8-67) is amended to read as
8 follows:

9 1. As used in this act:

10 "As is" means a used motor vehicle sold by a dealer to a consumer
11 without any warranty, either express or implied, and with the
12 consumer being solely responsible for the cost of any repairs to that
13 motor vehicle.

14 "Consumer" means the purchaser or prospective purchaser, other
15 than for the purpose of resale, of a used motor vehicle normally used
16 for personal, family or household purposes.

17 "Covered item" means and includes the following components of a
18 used motor vehicle: Engine - all internal lubricated parts, timing
19 chains, gears and cover, timing belt, pulleys and cover, oil pump and
20 gears, water pump, valve covers, oil pan, manifolds, flywheel,
21 harmonic balancer, engine mounts, seals and gaskets, and
22 turbo-charger housing; however, housing, engine block and cylinder
23 heads are covered items only if damaged by the failure of an internal
24 lubricated part. Transmission Automatic/Transfer Case - all internal
25 lubricated parts, torque converter, vacuum modulator, transmission
26 mounts, seals and gaskets. Transmission Manual/Transfer Case - all
27 internal lubricated parts, transmission mounts, seals and gaskets, but
28 excluding a manual clutch, pressure plate, throw-out bearings, clutch
29 master or slave cylinders. Front-Wheel Drive - all internal lubricated
30 parts, axle shafts, constant velocity joints, front hub bearings, seals and
31 gaskets[.]. Rear-Wheel Drive - all internal lubricated parts, propeller
32 shafts, supports and U-joints, axle shafts and bearings, seals and
33 gaskets.

34 "Dealer" means any person or business which sells or offers for sale
35 a used motor vehicle after selling or offering for sale three or more
36 used motor vehicles in the previous 12-month period.

37 "Deduction for personal use" means the mileage allowance set by
38 the federal Internal Revenue Service for business usage of a motor
39 vehicle in effect on the date a used motor vehicle is repurchased by a
40 dealer in accordance with section 5 of this act, multiplied by the total
41 number of miles a used motor vehicle is driven by a consumer from the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted May 24, 2004.

1 date of purchase of that vehicle until the time of its repurchase.

2 "Director" means the Director of the Division of Consumer Affairs
3 in the Department of Law and Public Safety.

4 ¹"Elements of design" means any automotive part or system on a
5 motor vehicle that is subject to the federal emission standards in 40
6 CFR s.86 or the California emission standards in Title 13 of the
7 California Code of Regulations.

8 "Emission control apparatus" means any device employed by the
9 vehicle manufacturer which prevents or controls the emission of any
10 air contaminant, including associated components which monitor the
11 function and maintenance of these devices.¹

12 "Excessive wear and tear" means wear or damage to a used motor
13 vehicle beyond that expected to be incurred in normal circumstances.

14 "Material defect" means a malfunction of a used motor vehicle,
15 subject to a warranty, which substantially impairs its use, value or
16 safety.

17 "Repair insurance" means a contract in writing to refund, repair,
18 replace, maintain or take other action with respect to a used motor
19 vehicle for any period of time or any specified mileage and provided
20 at an extra charge beyond the price of the used motor vehicle.

21 "Service contract" means a contract in writing to refund, repair,
22 replace, maintain or take other action with respect to a used motor
23 vehicle for any period of time or any specific mileage or provided at
24 an extra charge beyond the price of the used motor vehicle.

25 "Used motor vehicle" means a passenger motor vehicle, excluding
26 motorcycles, motor homes and off-road vehicles, title to, or possession
27 of which has been transferred from the person who first acquired it
28 from the manufacturer or dealer, and so used as to become what is
29 commonly known as "secondhand," within the ordinary meaning
30 thereof, but does not mean a passenger motor vehicle, subject to a
31 motor vehicle lease agreement which was in effect for more than
32 90 days, which is sold by the lessor to the lessee, or to a family
33 member or employee of the lessee upon the termination of the lease
34 agreement ¹[and does not mean a used motor vehicle that: is sold
35 without any warranty, service contract, or repair insurance; is sold "as
36 is"; and has been declared a total loss by an insurance company or by
37 a person holding a certificate of self-insurance pursuant to section 30
38 of P.L.1952, c.173 (C.39:6-52)]¹.

39 "Warranty" means any undertaking, in writing and in connection
40 with the sale by a dealer of a used motor vehicle, to refund, repair,
41 replace, maintain or take other action with respect to the used motor
42 vehicle, and which is provided at no extra charge beyond the price of
43 the used motor vehicle.

44 (cf: P.L.1997, c.22, s.1)

45

46 2. Section 2 of P.L.1995, c.373 (C.56:8-68) is amended to read as

1 follows:

2 2. It shall be an unlawful practice for a dealer:

3 a. To misrepresent the mechanical condition of a used motor
4 vehicle;

5 b. To fail to disclose, prior to sale, any material defect in the
6 mechanical condition of the used motor vehicle which is known to the
7 dealer;

8 c. To represent that a used motor vehicle, or any component
9 thereof, is free from material defects in mechanical condition at the
10 time of sale, unless the dealer has a reasonable basis for this
11 representation at the time it is made;

12 d. To fail to disclose, prior to sale, the existence and terms of any
13 written warranty, service contract or repair insurance currently in
14 effect on a used motor vehicle provided by a person other than the
15 dealer, and subject to transfer to a consumer, if known to the dealer;

16 e. To misrepresent the terms of any written warranty, service
17 contract or repair insurance currently in effect on a used motor vehicle
18 provided by a person other than the dealer, and subject to transfer to
19 a consumer;

20 f. To fail to disclose, prior to sale, the existence and terms of any
21 written warranty, service contract or repair insurance offered by the
22 dealer in connection with the sale of a used motor vehicle;

23 g. To misrepresent the terms of any warranty, service contract or
24 repair insurance offered by the dealer in connection with the sale of a
25 used motor vehicle;

26 h. To represent, prior to sale, that a used motor vehicle is sold with
27 a warranty, service contract or repair insurance when the vehicle is
28 sold without any warranty, service contract or repair insurance;

29 i. To fail to disclose, prior to sale, that a used motor vehicle is sold
30 without any warranty, service contract, or repair insurance; [and]

31 j. To fail to provide a clear written explanation, prior to sale, of
32 what is meant by the term "as is," if the used motor vehicle is sold "as
33 is"; and

34 k. To fail to disclose to a consumer in a sale, other than at auction,
35 prior to sale ¹[: (1) any missing emission control equipment in the
36 used motor vehicle; or (2) any defective emission control equipment
37 in the used motor vehicle which is known to the dealer] in a written
38 statement describing the defective components:

39 (1) Any missing emission control apparatus in the used motor
40 vehicle; or

41 (2) Any emission control apparatus or element of design that has
42 been disconnected, detached, deactivated, or in any other way
43 rendered inoperable or less effective than designed by the original
44 equipment manufacturer.

45 The written statement required by this subsection shall also include
46 the following notice:

1 "This vehicle contains missing or defective emission
2 control apparatus or elements of design incorporated
3 within the vehicle to control exhaust emissions. In
4 accordance with N.J.A.C.7:27-15 et seq., this vehicle
5 cannot be operated upon the highways of the State of
6 New Jersey until these items are restored to the original
7 configuration of the vehicle, as designed by the original
8 equipment manufacturer"¹.
9 (cf: P.L.1995, c.373, s.2)
10
11 3. This act shall take effect on the first day of the third month
12 following enactment.