

## CHAPTER 62-243 TAMPERING WITH MOTOR VEHICLE AIR POLLUTION CONTROL EQUIPMENT , EFF. 12/31/95

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### **62-243.100 Purpose and Scope.**

The Department of Environmental Protection adopts this chapter to establish procedures to determine compliance with those parts of Section 316.2935, F.S., which provide that no person shall operate on the public roads or streets of this state any motor vehicle that has been tampered with and that no person or motor vehicle dealer as defined in Section 320.27, F.S., shall offer or display for retail sale or lease, sell, lease or transfer title to a motor vehicle in Florida that has been tampered with.

*Specific Authority 316.2935 FS. Law Implemented 316.2935, 316.6105, 318.18, 325.209 FS. History--New 2-21-90, Amended 5-29-90, Formerly 17-243.100.*

### **62-243.200 Definitions.**

(1) "Six-point component check" means an inspection to confirm that the following air pollution control devices and systems, if installed on the motor vehicle by the vehicle manufacturer or importer, are in place and appear properly connected and undamaged as determined by visual observation:

- (a) Catalytic converter.
- (b) Fuel inlet restrictor.
- (c) Unvented fuel cap.
- (d) Exhaust gas recirculation system (EGR).
- (e) Air pump and/or air injection system (AIS).
- (f) Fuel evaporative emissions system (EVP).

(2) "Tampering" means the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle.

(a) A motor vehicle which has been rebuilt, built from parts, or has had an engine exchanged must match exactly any United States Environmental Protection Agency certified configuration of the same or newer model year as the chassis.

(b) An imported nonconforming motor vehicle which has been imported under a certificate of conformity or modification/test procedure pursuant to 40 CFR 85, Subpart P, must comply with the emission control requirements of such certificate or procedure.

(c) A motor vehicle which has been made from a manufactured kit body must match exactly any United States Environmental Protection Agency certified configuration of the engine family used in the vehicle.

(d) Any failure to meet the conditions of paragraphs (a), (b) or (c), above, shall be considered tampering.

(3) "Three-point component check" means an inspection to confirm that the following air pollution control devices and systems, if installed on the motor vehicle by the vehicle manufacturer or importer, are in place and appear properly connected and undamaged as determined by visual observation:

- (a) Catalytic converter.
- (b) Fuel inlet restrictor.
- (c) Unvented fuel cap.

*Specific Authority 316.2935 FS. Law Implemented 316.2935 FS. History--New 2-21-90, Amended 5-29-90, 1-2-91, Formerly 17-243.200.*

### **62-243.300 Exemptions.**

(1) The following motor vehicles are exempt from the provisions of this chapter:

(a) Motor vehicles which have net vehicle weights greater than 5,000 pounds or gross vehicle weights greater than 10,000 pounds.

(b) Motor vehicles which are designated as model year 1974 or older.

(c) Motorcycles, mopeds, scooters and golf carts, as defined in Section 320.01, F.S.

(d) Farm vehicles, as defined in Section 320.51, F.S.

(e) Imported nonconforming motor vehicles which are documented to be exempt from federal emission control requirements by the U.S. Environmental Protection Agency under 40 CFR 85, Subpart P.

(2) Motor vehicles which are owned by persons who have received hardship exemptions, or exchanged engine certifications, pursuant to Department of Highway Safety and Motor Vehicles Rule 15C-6.002, F.A.C., are exempt from the provisions of Rule 62-243.400(1), F.A.C., but, unless otherwise exempted, are subject to the provisions of Rules 62-243.400(2) and 62-243.500, F.A.C.

(3) The following motor vehicle transactions are exempt from the provisions of Rule 62-243.400(2), F.A.C.:

(a) Sales, reassignments, and trades to licensed motor vehicle dealers.

(b) First-time retail sales or leases of new motor vehicles subject to certification under Section 207, Clean Air Act, 42 U.S.C., 7541.

(c) Lease agreements for 30 days or less.

(d) Sales of motor vehicles for salvage purposes only.

(4) The following motor vehicle transactions are exempt from the certification requirement of Rule 62-243.500, F.A.C.:

(a) Sales, reassignments or transfers of motor vehicles by endorsement or delivery of a manufacturer's or distributor's statement of origin to a motor vehicle dealer holding a franchise agreement from the manufacturer or distributor issuing the statement of origin.

(b) First-time retail sales or leases of new motor vehicles subject to certification under Section 207, Clean Air Act, 42 U.S.C., 7541.

(c) Sales, reassignments, and trades to licensed motor vehicle dealers, where the dealer elects not to request the certification from the seller or person reassigning title.

(d) Sales, reassignments, and trades by licensed motor vehicle dealers to licensed motor vehicle dealers.

(e) Lease agreements for 30 days or less.

(f) Sales of motor vehicles for salvage purposes only.

*Specific Authority 316.2935 FS. Law Implemented 316.2935, 325.209 FS. History--New 2-21-90, Amended 5-29-90, 1-2-91, Formerly 17-243.300.*

#### **62-243.400 Prohibitions.**

(1) On and after January 1, 1990, no person shall operate on the public roads or streets of this state any nonexempt motor vehicle that has been tampered with.

(2) Except as provided in Rule 62-243.300(3), F.A.C., on and after July 1, 1990, no person or motor vehicle dealer as defined in Section 320.27, F.S., shall offer or display for retail sale or lease, sell, lease or transfer title to a nonexempt motor vehicle in Florida that has been tampered with. For the purpose of this section, "display for retail sale or lease" means advertise or represent to the general public that a particular vehicle is available for retail sale or lease.

*Specific Authority 316.2935 FS. Law Implemented 316.2935 FS. History--New 2-21-90, Amended 5-29-90, 1-2-91, Formerly 17-243.400.*

#### **62-243.500 Certification.**

(1) Certification Statement.

(a) Except as provided in Rule 62-243.300(4), F.A.C., on and after January 1, 1991, at the time of sale, lease, or transfer of title of a nonexempt motor vehicle, the seller, lessor, or person transferring title shall provide a written certification to the purchaser, lessee, or transferee that the air pollution control equipment of the motor vehicle has not been tampered with by the seller, lessor, transferor, or by his or her agents, employees, or other representatives.

(b) As provided in Rule 62-243.500(1)(d), F.A.C., a licensed motor vehicle dealer shall also visually observe and certify in writing that specific air pollution devices and systems are in place and appear properly connected and undamaged.

(c) For sales, leases, or transfers of title by private parties, the certification shall read as follows:

1. Florida law prohibits the operation, sale, lease, or transfer of title of any automobile or light-duty truck (1975 or newer, 10,000 pounds gross vehicle weight or less) that has been tampered with. "Tampering" means the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle (316.2935, F.S.).

2. As the owner of this motor vehicle, or on behalf of the owner which is an organization, firm, or other such entity, I hereby certify that the following air pollution emission control devices and systems of this vehicle, if installed by the vehicle manufacturer or importer, have not been tampered with by me or with my permission, or by or with the permission of the owner of said vehicle: catalytic converter, fuel inlet restrictor, unvented fuel cap, exhaust gas recirculation system (EGR)\*, air pump and/or air injection system (AIS)\*, and fuel evaporative emissions system (EVP)\* (\*1981 and newer vehicles only).

3. This certification shall not be deemed or construed as a warranty that any air pollution control device or system of the vehicle is in functional condition, nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.

(d) For sales, leases, or transfers of title by licensed motor vehicle dealers to private parties, the certification shall read as follows:

1. Florida law prohibits the operation, sale, lease, or transfer of title of any automobile or light-duty truck (1975 or newer, 10,000 pounds gross vehicle weight or less) that has been tampered with. "Tampering" means the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle (316.2935, F.S.).

2. As a motor vehicle dealer licensed to conduct business in the State of Florida, I hereby certify that the following air pollution emission control devices and systems of this vehicle, if installed by the vehicle manufacturer or importer, have not been tampered with by me or by my agents, employees, or other representatives: catalytic converter, fuel inlet restrictor, unvented fuel cap, exhaust gas recirculation system (EGR),\* air pump and/or air injection system (AIS),\* and fuel evaporative emissions system (EVP)\* (\*1981 and newer vehicles only). I also hereby certify that I or persons under my supervision have inspected this motor vehicle and, based on said inspection, have determined that the above-listed air pollution control devices and systems, if installed by the vehicle manufacturer or importer, are in place and appear properly connected and undamaged as determined by visual observation.

3. This certification shall not be deemed or construed as a warranty that any air pollution control device or system of the vehicle is in functional condition, nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.

(e) The certification statement shall be provided on the bill of sale, lease agreement, or other document furnished by the seller, lessor, or person transferring title. The make, model, year, and vehicle identification number of the motor vehicle being sold, leased, or transferred shall be included on the document containing the certification statement.

(2) Acknowledgment of Certification.

(a) All parties to a transaction, or their authorized agent(s) or attorney(s) in fact, shall acknowledge that the certification required by this section has been prepared, tendered and received. Such acknowledgment may be included on the face of the certification document and shall reflect the date of tender and receipt.

(b) Those persons authorized or empowered to execute motor vehicle title transactions shall also be authorized to execute the certification as described by subparagraph (a).

*Specific Authority 316.2935 FS. Law Implemented 316.2935 FS. History—New 5-29-90, Amended 1-2-91, Formerly 17-243.500.*

**62-243.600 Enforcement.**

(1) Enforcement of Rule 62-243.400(1), F.A.C., shall be the responsibility of any law enforcement officer of this state as defined in Section 112.531, F.S. Investigation of tampering for purposes of Rule 62-243.400(1), F.A.C., shall consist of a three-point component check of the vehicle.

(2) Enforcement of Rule 62-243.400(2), F.A.C., as it applies to persons other than motor vehicle dealers, shall be the responsibility of any law enforcement officer of this state as defined in Section 112.531, F.S. Investigation of tampering for the purposes of Rule 62-243.400(2), F.A.C., as it applies to persons other than motor vehicle dealers, shall consist of:

(a) A three-point component check of the motor vehicle if the vehicle is designated as model year 1975 through 1980.

(b) A three-point or six-point component check of the motor vehicle if the vehicle is designated as model year 1981 or newer.

(3) Enforcement of Rule 62-243.400(2), F.A.C., as it applies to motor vehicle dealers, shall be the responsibility of the Department of Environmental Protection, any authorized agent of the Department, or any law enforcement officer of this state as defined in Section 112.531, F.S. Investigation of tampering for the purposes of Rule 62-243.400(2), F.A.C., as it applies to motor vehicle dealers, shall consist of:

(a) A three-point component check of the motor vehicle if the vehicle is designated as model year 1975 through 1980.

(b) A six-point component check of the motor vehicle if the vehicle is designated as model year 1981 or newer.

(4) In conducting a three-point or six-point component check, the applicability of any air pollution control device or system to a motor vehicle may be determined from the engine compartment label as required under 40 CFR 85.1510 or 40 CFR 86.085-35.

(5) The Department of Environmental Protection and any authorized agent of the Department may assist law enforcement officers in making determinations of tampering under this rule.

(6) Any nonexempt motor vehicle which fails to meet any part of the three-point or six-point component check shall be considered a tampered motor vehicle for purposes of Rule 62-243.400, F.A.C.

(7) It shall be considered a single violation of Rule 62-243.400, F.A.C., if one or more components of a motor vehicle have been tampered with as detected during a three-point or six-point component check.

*Specific Authority 316.2935 FS. Law Implemented 316.2935 FS. History—New 2-21-90, Amended 5-29-90, 1-2-91, Formerly 17-243.600.*