

US EPA ARCHIVE DOCUMENT

Chapter 1200-3-36
Motor Vehicle Tampering

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1200-3-36-.01 Purpose

The purpose of this chapter is to reduce the air pollution caused by tampering with a motor vehicle emissions system.

Authority: TCA 68-201-105 and 4-5-202

1200-3-36-.02 Definitions

Unless specifically defined in this chapter, the definitions from Chapters 1200-3-2 and 1200-3-29 shall apply:

- (1) Aftermarket part means any part offered for sale for installation in or on a motor vehicle after such vehicle has left the vehicle manufacturer's production line.
- (2) Air pollution emission control device is a mechanism or equipment installed on a motor vehicle by the manufacturer that controls and reduces generated emissions that would otherwise be released into the atmosphere.
- (3) Antique motor vehicle is any motor vehicle over twenty-five years old which is owned solely as a collectors' item and is used for participation in club activities, exhibits, tours, parades and similar uses, but in no event for general transportation.
- (4) Catalytic converter is an air pollution emission control device containing a catalyst for converting automobile exhaust into mostly harmless products.
- (5) Department means the Tennessee Department of Environment and Conservation, Division of Air Pollution Control.
- (6) EGR valve means an exhaust gas recirculation valve.
- (7) Federal Motor Vehicle Standards are the required emission standards as defined in Title 40, Code of Federal Regulations, Parts 86 and 88.
- (8) Individual is a private citizen who may or may not be the owner or operator of the motor vehicle that performs engine, transmission, and/or exhaust system repairs without obtaining the services of a repair technician provided that all repairs are in accordance with Rule 1200-3-36-.03.
- (9) Kit Car means a motor vehicle which does not utilize a chassis from a vehicle certified to meet emissions control standards or for which the original manufacturer's identification has been eliminated due to the replacement of the vehicle's body with one of a different make and/or style.

- (10) Leaded gasoline means gasoline containing greater than five hundredths (0.050) gram of lead per gallon of gasoline.
- (11) Motor vehicle is any self-propelled vehicle used for transporting persons or commodities on public roads.
- (12) New motor vehicle is any motor vehicle that has never been previously titled or registered in this or any other jurisdiction and whose ownership document remains as a manufacturer's certificate of origin.
- (13) Repair means to replace any component of an engine, transmission, exhaust, and/or electrical system of a motor vehicle.
- (14) Repair facility is any garage, muffler shop, dealership, or other commercial establishment that performs engine, transmission, and/or exhaust system repairs, including electronic computer systems associated with the above-mentioned systems, on motor vehicles.
- (15) Repair technician is any person who:
- (a) is professionally engaged full-time in vehicle repair or employed by an ongoing business whose purpose is vehicle repair, or
 - (b) is a certified mechanic with valid certifications that are current from the National Institute for Automotive Service Excellence (ASE) in Electrical Systems (A6), Engine Performance (A8), and Advanced Engine Performance Specialist (L1); or
 - (c) has satisfactorily completed an independent or vehicle manufacturer's training course, or has passed a nationally-recognized test, which course or test covers the emissions test methods used, diagnosis of the causes for failures, and repair work most frequently done for vehicles failing the transient emission test.
- (16) Routine maintenance is the replacing of motor vehicle parts that routinely wear as a result of normal operation.
- (17) Tampering means to modify, remove, render inoperative, cause to be removed, or make less operative any air pollution emission control device or element of design installed on a motor vehicle or motor vehicle engine which results in an increase in emissions beyond established federal motor vehicle standards. Tampering includes, but is not limited to, any of the following:
- (a) Removing or rendering inoperative such devices as catalytic converter, air pump, or EGR valve,
 - (b) Disconnecting or plugging vacuum lines or electrical or mechanical portions of the pollution control system such as electrical solenoids or vacuum-activated valves,
 - (c) Modifying a motor vehicle's emission control design to other than the manufacturer's specifications,
 - (d) Installing any replacement part that is not equivalent in design and function to the part that was originally on the motor vehicle,
 - (e) Adding a part on a motor vehicle that does not meet the manufacturer's specifications, such as installation of dual carburetors to replace a single carburetor, or installing a dual exhaust prior to the catalytic converter on a vehicle that was manufactured as single exhaust only,

- (f) Installing a motor vehicle engine unless the resulting motor vehicle is identical to a configuration of the same or newer model year as the original motor vehicle chassis. This configuration must comply with the federal motor vehicle standards,
 - (g) Introducing leaded gasoline or any gasoline additive into a motor vehicle that was originally designed to use unleaded gasoline only that would result in the poisoning of the catalyts,
 - (h) Installing any electrical device that is attached to the motor vehicle's computer system that is designed to give false onboard diagnostic readiness codes and is used as an attempt to pass the onboard diagnostic test,
 - (i) Introducing any chemical or fuel into the gasoline other than what is recommended by the manufacturer to be an approved fuel or fuel additive,
 - (j) Detuning the motor vehicle engine to a lower or higher idle to run out of manufacturer's design specifications,
 - (k) Operating the motor vehicle without the appropriate fuel cap or the appropriate fuel inlet restrictor,
 - (l) Installing high performance chips which reprograms or overrides the motor vehicle's on-board computer system,
 - (m) Installing any aftermarket part that does not meet the manufacturer's specifications.
- (18) Technical Secretary is the Technical Secretary of the Air Pollution Control Board of the State of Tennessee or his designated representative.
- (19) Vehicle owner is any individual, business, or corporation that holds the title to a motor vehicle.

Authority: TCA 68-201-105 and 4-5-202

1200-3-36-.03 Motor Vehicle Tampering Prohibited

- (1) No person shall cause, suffer, allow, or permit tampering of a motor vehicle or motor vehicle engine that is in compliance with federal motor vehicle standards except where the purpose of modification or removal of the air pollution emission control device is to install another device which is equally effective in reducing emissions from the vehicle.
- (2) No person shall manufacture, sell, offer to sell, or install any part or component on a motor vehicle or motor vehicle engine where the purpose of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine that is in compliance with the federal motor vehicle standards.
- (3) No person shall perform emission related repairs on any part of a motor vehicle that is in a tampered state unless such repairs are performed that brings the vehicle into compliance with federal motor vehicle standards. This provision applies regardless of the age or mileage of a vehicle that was designed to meet federal motor vehicle standards.

Authority: TCA 68-201-105 and 4-5-202

1200-3-36-.04 Record Keeping Requirements

- (1) The repair facility and/or the person performing the repairs, and the vehicle owner shall maintain a complete record of all emission repairs (as related to the manufacturer's warranty) for a minimum period of one (1) year from the date of the repair. These documents must contain the following: vehicle identification number (VIN), vehicle make, vehicle model, model year, name, address and telephone number of the vehicle owner.
- (2) In the event of a catalytic converter replacement, the old replaced catalyst must be kept for a minimum of fifteen (15) days. The new replacement catalyst must be accompanied by a copy of the warranty tag issued with it.

Authority: TCA 68-201-105 and 4-5-202

1200-3-36-.05 Exemptions

- (1) The Technical Secretary may exempt any motor vehicle or motor vehicle engine from Rule 1200-3-36-.03 subsection (1) or (2) upon such terms and conditions as he may find necessary for the purpose of investigations, demonstrations, or training.
- (2) The following classes of motor vehicles are exempt from the requirements established in Rule 1200-3-36-.03 of this chapter:
 - (a) antique motor vehicles
 - (b) kit cars
- (3) Routine maintenance and repair of motor vehicles and motor vehicle engines which require the use of an aftermarket part, alteration or add-on part will not constitute tampering if the repair does not adversely affect emissions performance.

Authority: TCA 68-201-105 and 4-5-202

Signature of the agency officer or officers directly responsible for proposing and drafting this rule:

 Barry R. Stephens
 Director
 Tennessee Air Pollution Control Division

The roll-call vote of the Tennessee Air Pollution Control Board on this rulemaking hearing rule was as follows:

	Aye	No	Abstain
_____ Wilton Burnett, Jr.	_____	_____	_____
_____ Richard A. Bolton	_____	_____	_____
_____ Tracy R. Carter	_____	_____	_____
_____ Dr. Mary English	_____	_____	_____
_____ Sharon Goldsworthy	_____	_____	_____
_____ Richard Holland	_____	_____	_____
_____ Stephen Gossett	_____	_____	_____
_____ Robert D. Kirkpatrick	_____	_____	_____
_____ Helen Hennon, P.E.	_____	_____	_____
_____ Ron Page	_____	_____	_____
_____ Ike Sewell	_____	_____	_____
_____ Greer Tidwell, Jr.	_____	_____	_____
_____ Richard Warder	_____	_____	_____
_____ Larry Waters	_____	_____	_____

I certify that this is an accurate and complete copy of the rulemaking hearing rule, lawfully promulgated and adopted by the Tennessee Air Pollution Control Board on the _____ day of _____, 2004.

Further, I certify that the provisions of T.C.A. §§4-5-222 have been fully complied with, that this rule was properly presented for filing, a notice of rulemaking hearing having been filed in the Department of State on the 27th day of February, 2004, and such notice of rulemaking hearing having been published in March 15, 2004, issue of the Tennessee Administrative Register, and such rulemaking hearing having been conducted pursuant thereto on the 19th day of April, 2004.

Barry R. Stephens
Technical Secretary
Tennessee Air Pollution Control Board

Subscribed and sworn to before me this the _____ day of _____, 2004.

Notary Public

My commission expires on the _____ day of _____, _____.

The rulemaking hearing rule provided for herein has been examined by the Attorney General and Reporter of the State of Tennessee and approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Paul G. Summers
Attorney General and Reporter

The rulemaking hearing rule set out herein was properly filed in the Department of State on the ____ day of _____, 20 __, and will become effective on the ____ day of _____, 20 ____.

Riley C. Darnell
Secretary of State

By: _____