



# Colorado Emissions Tampering Prohibitions Automobile Dealers

Colorado Statute §25-7-144, which went into effect January 1, 2024, prohibits tampering with motor vehicle<sup>1</sup> emissions control systems. The new statute expands on the previous Colorado laws against tampering with an emissions system and provides penalties in addition to the Federal Clean Air Act §203(a)(3).

Under the statute, tampering means to deactivate, dismantle, defeat, bypass, alter, modify, remove, or otherwise render inoperable, in whole or in part, mechanical or electrical parts or components of an emission control system.

Colorado Revised Statutes §25-7-144 applies to all motor vehicle dealers, vehicle owners, operators, automotive/diesel technicians, repair facilities, fleet owners, and auto/truck parts retail and wholesale sellers anywhere in the state of Colorado. **The statute applies to all vehicles that were originally sold with a certification of Federal or California emissions compliance, regardless of fuel type or where they are registered or operated.**

Under the Colorado statute it is illegal to:

- **Sell, lease, rent, offer for sale, or transfer title of a tampered vehicle.**<sup>2</sup>
- Remove (“delete”), disconnect, or disable any emissions control component or system, including the Check Engine Light.
- Modify or “reflash” engine control software, especially when doing so alters or deactivates the OBD monitoring systems.
- Sell, manufacture, install, or possess for sale any part that would bypass, defeat, or render inoperative any part of the emissions control system on a motor vehicle.<sup>3</sup>
- Knowingly operate a tampered vehicle in Colorado.

Key points for motor vehicle sales:

In contrast to emissions test requirements which apply to vehicles registered or operated within the AIR and DOIP program areas, the provisions of the anti-tampering statute are applicable statewide, apply to all vehicles and fuel types, and apply to all model years.

Any vehicle with a tampered emissions control system cannot be sold at retail or offered for retail sale or lease. If you choose to purchase or accept a tampered vehicle in trade you must repair the vehicle to bring it back into emissions compliance before offering it for retail sale, although you may make wholesale transfers to another licensed dealer<sup>4</sup>.

This law will be enforceable by the Colorado Department of Public Health and Environment (CDPHE), Air Pollution Control Division (APCD).

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<sup>1</sup> Motor vehicle as defined in CRS §42-1-102(58)

<sup>2</sup> Licensed dealers may engage in wholesale transactions with other licensed dealers but must bring a tampered vehicle back into compliance prior to listing it for retail transaction.

<sup>3</sup> Per state inspection procedures, if a vehicle modification carries a California Air Resources Board (CARB) Executive Order (EO) number for the specific vehicle -AND- a manufacturer-provided sticker showing the correct EO# is affixed near the Vehicle Emissions Control Information sticker, the modification may be allowed.

<sup>4</sup> Per CRS §25-7-144(1)(c) as defined in CRS §42-4-310(1)(a)(I)



Additionally, section 8 of the anti-tampering bill (SB22-179), makes the sale of a vehicle without a properly functioning emissions system an unlawful act under Colorado's franchise law, violations of which are punishable by the Dealer Board and subject to a Colorado Consumer Protection Act violation.

### **CRS 44-20-121 Licenses - grounds for denial, suspension, or revocation.**

CRS 44-20-121(3)(S): Selling to a retail customer a motor vehicle that is not equipped with a properly functioning emission control system, as determined based on an enforcement action taken pursuant to sections 25-7-122 (1)(j) and 25-7-144, *unless the ownership document associated with the motor vehicle is a salvage certificate of title, a non repairable title, or, if issued by another state, a similar document.*

Motor vehicle dealers with parts and service operations should be aware of the prohibitions to installing unauthorized aftermarket emissions related parts or software on vehicles.

Be aware that there is no exemption for "off road" or "off highway" use. APCD will allow modifications for vehicles converted solely for competition motorsports and which are not registered for on-road use. However, there is no exemption for "street-strip" vehicles.

If you advertise or make sales of parts or services that would be a violation of the tamper prohibitions you may be held liable. A simple statement similar to, "for off road use only." does not shield you from liability.

You may perform repairs on a vehicle that has been tampered provided they are unrelated to the tampered element(s). If you would need to remove, replace, or repair the tampered parts or components you are required either to replace such parts with conforming parts or otherwise return that element of the emissions control system to compliance, or refuse to perform the particular service.

If you become aware of a business that is not complying with the provisions of §25-7-144 and is thereby competing unfairly or defrauding the public, you may report what you know by contacting the APCD at the phone number at the bottom of the page or by filling out the complaint form using the link at the bottom corner of this document.

## **Penalties**

APCD's priority is to restore tampered vehicle emissions control systems to full normal function and to prevent future emissions tampering. Motor vehicle dealers, including service departments should be aware, however, that violations of §25-7-144 can carry penalties for those who perform tampering for profit. Pursuant to Colorado Revised Statutes Section 25-7-122(1)(j)(I)(A), CDPHE has the authority to assess monetary penalties to any person who violates any requirements of an emissions control regulation of the Air Quality Control Commission. Any person who violates the provisions of CRS 25-7-144 for profit is subject to a civil penalty of up to \$1,000 for a first violation, \$7,500 for a second violation, and \$15,000 for a third and subsequent violations. Violations of the Colorado statutes may also constitute separate violations of the Federal Clean Air Act with penalties of up to \$25,000 per violation<sup>5</sup>.

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