

Chapter 4

Division 12 Safety and Odometers



## **Division 12 Safety Inspection**

Division twelve safety outlines various vehicle safety regulations that car dealers must comply with when selling cars in California. Here are some of the key safety requirements:

1. **Lights:** All vehicles sold by dealers in California must be equipped with appropriate headlights, taillights, brake lights, and turn signals. These lights must be in good working order and meet state safety standards.
2. **Brakes:** All vehicles must have a braking system that is in good working order and meets state safety standards. The braking system must be capable of bringing the vehicle to a stop within a reasonable distance.
3. **Tires:** All vehicles must be equipped with tires that are in good condition and meet state safety standards. The tires must have sufficient tread depth and be free from cuts, punctures, or other damage that could affect their performance.
4. **Windshield and mirrors:** All vehicles must have a windshield that is in good condition and free from cracks or other damage that could impair visibility. Vehicles must also have functioning mirrors that provide a clear view of the road behind the vehicle.
5. **Seat belts:** All vehicles sold by dealers in California must be equipped with functioning seat belts that meet state safety standards. The seat belts must be in good working order and free from damage.
6. **Airbags:** All vehicles must be equipped with functioning airbags that meet state safety standards. The airbags must be in good working order and free from damage.

Dealers must also comply with other safety regulations outlined in the California Vehicle Code, such as those related to emissions control and vehicle registration. It is important for dealers to take these safety requirements seriously and ensure that all vehicles they sell meet state safety standards. Failure to do so can result in legal liability and damages for the dealer, as well as potentially criminal penalties.

This means that anything that would be considered a safety item on a vehicle must be in good working condition at the time of sale. One best practice is making sure that when a vehicle is purchased, that the vehicle either runs through the shop on site at the dealership or runs through an independent third-party repair shop that is licensed by the bar. This will ensure that there is an impartial, second pair of eyes on the vehicle to ensure that all the safety items are in good working order.

One of the biggest safety items that are cited in most potential law suits that dealers are involved with is unannounced frame or structural damage. This can be done by a mechanical shop or a body shop that has been trained in properly identifying frame or structural damage. Part of the problem is that frame or structural damage is subjective when it comes to what is considered damage to the wholesale and retail market.

Most dealers in the wholesale market forgive certain items on wholesale front, such as a rear body panel being replaced. This would be according to NAAA guidelines that most physical auction houses go off, however, in a retail environment a rear body panel is considered structural damage because it is a physical welded component that is a part of the frame. That is why there are some reports that are designed to take the mystery out of history when it comes to the inspection of vehicles. It is a report called a True 360 report. Although it does not cover all the potential structural issues on a vehicle such as underbody, mechanical or the interior of the vehicle, it is one of the most comprehensive ways to identify prior repairs and any existing damage to the exterior of the vehicle to provide a structural inspection. This is also an important blueprint of items that need to be covered in the inspection process such as:

- Bumpers
- Hood
- Doors
- Cosmetic Rockers
- Cab Corners
- Quarter Panels
- Bedsides
- Roof
- Roof Rails
- Deck lids/ Tailgates
- Cladding/ Mirror Housing

This is a tangible report that you can give your customers in addition to a safety inspection form that will be given to you by the mechanic or body shop of your choice. The more detailed you can be about your inspection process with your vehicles, the better off the daily operations of your dealership can be. This helps build consumer confidence in your dealership, but it also establishes operational procedures that occur on the vehicles that are offered for sale at your dealership.

What is considered Division 12 safety equipment.

According to CVC 24007:

“No dealer or person holding a retail seller’s permit shall sell a new or used vehicle that is not in compliance with this code and departmental regulations adopted pursuant to this code, unless the vehicle is sold to another dealer, sold for the purpose of being legally wrecked or dismantled, or sold exclusively for off-highway use.”

This is including, but not limited to:

- Odometers
- Horns
- Windows, Windshields, and their components
  - Windshield wipers
  - Aftermarket tint
- Mirrors
- Internal and external structural components
- Muffler and Exhaust system
- Lighting
- Tires, shocks, and brakes
- Smog inspection/Certification
- Heater/Defroster
- Airbags

The short answer is anything that could be considered a functional item on a vehicle that should be in good working order at the time of sale can be considered Division 12 safety. In no way, shape or form can a dealer sell a vehicle that is not in compliance with Division 12 safety unless it's done wholesale or is being sold to a dismantler.

Public Auctions and listing problems without addressing them.

Division twelve safety specifically states that public auctions cannot sell a vehicle at a public auction that is not in compliance with this code.

Retail dealers may not sell any vehicle to the public that has safety issues that have not been addressed. Regardless of if they are listed in the Buyers Guide, disclosed to the customer or any form of attempts at waiving liabilities. The California Vehicle Code clearly states that the dealers know, or should have known, about the condition of any of the vehicles that are offered for sale at their dealership.

## Odometers

In California, car dealers are required to comply with federal and state laws regarding odometers. The main federal law that governs odometer requirements is the Motor Vehicle Information and Cost Savings Act, also known as the Odometer Disclosure Act. California also has specific laws that regulate odometer disclosures, which are outlined in the California Vehicle Code.

Under federal law, car dealers must provide a written odometer disclosure statement to the buyer of any vehicle that is less than 10 years old. This statement must include the vehicle's odometer reading at the time of sale, as well as any known history of the odometer being rolled back or otherwise tampered with. The seller must also certify that the odometer reading is accurate to the best of their knowledge.

Although it is not required to disclose the odometer reading if the vehicle is older than the first ten model years, the information is readily available through vehicle history reports and by running a KSR. It is best practice to disclose all information when it is known about the vehicle.

The odometer is recorded on either the title or on a REG 262 to show the changes of the odometer as the vehicle is operated on the highway.

If a vehicle has exceeded the mechanical limits, the title must be marked TMU or True Mileage Unknown.

If an odometer stops working, the vehicle needs to be taken to a licensed repair shop and either fixed to reflect the current mileage being read from the vehicles computer or if the mileage cannot be reestablished from the computer then a new cluster will need to be installed, set to 0 and a sticker then needs to be indicated on the door jamb when the vehicle was serviced and that the true mileage on the vehicle is now unknown.

It is important to look at as many vehicle history reports as possible when reviewing the prior history of a vehicle and to help gain insight on any potential issues regarding the vehicle. Often on vehicle history reports, there will be a notation of possible odometer discrepancies that will either need to be cleared up with the service center or DMV that reported the adjustments. Either that, or the customer will need to be notified that there is a possible odometer discrepancy at the time of selling the vehicle.

If the vehicle has been repossessed, it is required to be disclosed that the odometer is true and correct to the best of their knowledge.