

50-653a. Odometer fraud; attorney general investigations of violations; subpoena power. (a) If, by the attorney general's own inquiries or as a result of complaints, the attorney general has reason to believe that a person has engaged in, is engaging in or is about to engage in an act or practice that violates this act, the attorney general, or any deputy attorney general or assistant attorney general, may administer oaths and affirmations, subpoena witnesses or matter and collect evidence.

(b) If matter that the attorney general subpoenas is located outside this state, the person subpoenaed may either make it available to the attorney general at a convenient location within the state or pay the reasonable and necessary expenses for the attorney general or the attorney general's representative to examine the matter at the place where it is located. The attorney general may designate representatives, including officials of the state in which the matter is located, to inspect the matter on the attorney general's behalf, and the attorney general may respond to similar requests from officials of other states.

(c) Service by the attorney general of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made personally within this state, but if such cannot be obtained, substituted service therefor may be made in the following manner:

(1) Personal service thereof without this state; or

(2) the mailing thereof by certified mail to the last known place of business, residence or abode within or without this state of such person for whom the same is intended; or

(3) in the manner provided in the code of civil procedure as if a petition had been filed; or

(4) such service as the district court may direct in lieu of personal service within this state.

(d) The attorney general may request that an individual who refuses to comply with a subpoena, on the ground that testimony or matter may incriminate the individual, be ordered by the court to provide the testimony or matter. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination to which the individual is entitled by law, may not be subjected to a criminal proceeding or to a civil penalty to the transaction concerning which the individual is required to testify or produce relevant matter. This subsection does not apply to civil sanctions imposed under K.S.A. 50-651, and amendments thereto.

(e) If any person willfully fails or refuses to file any statement or report required by this act, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to the district court and, after a hearing thereon, the district court may issue an order:

(1) Granting injunctive relief restraining the sale or advertisement of any merchandise by such persons; or

(2) vacating, annulling or suspending the corporate charter of a corporation created by or under the laws of this state or revoking or suspending the certificate of authority to do business in this state of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; or

(3) granting such other relief as may be required, until the person files the statement or report, or obeys the subpoena.

(f) The county attorney or district attorney may investigate, institute and commence actions under this act pursuant to the odometer fraud statutes in K.S.A. 50-647 through 50-653, and amendments thereto, in the same manner as provided for the attorney general. It shall be the duty of the county attorney or district attorney to lend to the attorney general such assistance as the attorney general may request in the investigation, commencement and prosecution of actions in the district court of the county or district attorney's county pursuant to this act, or the county attorney or district attorney may institute and prosecute actions hereunder in the same manner as provided for the attorney general.

(g) This section shall be part of and supplemental to the odometer fraud statutes in K.S.A. 50-647 through 50-653, and amendments thereto.

History: L. 1991, ch. 155, § 1; July 1.