

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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JUL 7 12 12 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Office of the Attorney General TITLE NUMBER: 142
RULE TYPE: Legislative; CITE AUTHORITY: W. Va. Code Section 46A-6-103 & W. Va. Code Section 46A-7-102(1)(e)
AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 28

TITLE OF RULE BEING PROPOSED: Legislative Rule Pertaining to The Prevention of Unfair or Deceptive Acts or Practices in Motor Vehicle Sales

DATE OF PUBLIC HEARING: 8/10/94 - TIME: 9:00 a.m.

LOCATION OF PUBLIC HEARING: Charleston Civic Center
West Virginia Room 105
200 Civic Center Drive
Charleston, West Virginia 25301

COMMENTS LIMITED TO: ORAL X, WRITTEN ___, BOTH ___

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Tom Rodd, Director

Consumer Protection Division

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

812 Quarrier Street

The issues to be heard shall be limited to the proposed rule.

Charleston, WV 25301

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



Authorized Signature

5-88

**TITLE 142
LEGISLATIVE RULE
ATTORNEY GENERAL**

**SERIES 28
LEGISLATIVE RULE PERTAINING TO THE
PREVENTION OF UNFAIR OR DECEPTIVE ACTS OR
PRACTICES IN MOTOR VEHICLE SALES**

STATEMENT OF CIRCUMSTANCES

Consumer abuse in the sale of motor vehicles in West Virginia is regrettably common. Passing off used rental cars as something else has been a major problem in the State of West Virginia. The proposed rule would provide protection to the consumer in motor vehicle sales, and guidance to the seller.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Legislative Rule Pertaining to the Prevention of Unfair or Deceptive Acts or Practices in Motor Vehicle Sales

Rule Title: _____

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency Office of the Attorney General Consumer Protection Division

Address 812 Quarrier Street, 6th Floor
Charleston, West Virginia 25301

1. Effect of Proposed Rule *Not Applicable*

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:
No cost to State or local government.

3. Objectives of these rules: *Promotion of Consumer Protection*

Rule Title: Legislative Rule Pertaining to the Prevention of Unfair or Deceptive Acts or Practices in Motor Vehicle Sales

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Will promote private adjudication of consumer issues, reducing burden on state regulations.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

Will promote consumer confidence and assist responsible businesses, leading to job growth.

C. Economic Impact on Citizens/Public at Large.

Will assist consumers and businesses with certainty in consumer law, promoting sustainable and responsible business development.

Date: 6/30/94

Signature of Agency Head or Authorized Representative



**TITLE 142
LEGISLATIVE RULE
ATTORNEY GENERAL**

**SERIES 28
LEGISLATIVE RULE PERTAINING TO THE
PREVENTION OF UNFAIR OR DECEPTIVE ACTS OR
PRACTICES IN MOTOR VEHICLE SALES**

BRIEF SUMMARY

The proposed Legislative Rule covers new and used vehicle sales and would provide protection to consumers which is greatly needed. The proposed rule would make it an unfair or deceptive act or practice for a motor vehicle dealer to represent that a used car is a factory car when such is not the case, and for the dealer to fail to provide the consumer with a signed contract. The rule would give the consumer right to cancel the contract and receive a full refund, before he receives the contract signed by an authorized dealer representative. The proposed rule would also make it an unfair or deceptive act or practice for the dealer to fail to honor any warranty, obtain signatures from consumers on contracts that are not fully completed when it was signed, alter the odometer, mileage of the vehicle, fail to provide the consumer with a description of the cars usage, and increasing the price of the motor vehicle after accepting an order of purchase.

The proposed rule would also govern advertising and sales presentation requirements, and would make it an unfair act or practice to refuse to sell goods and services that have been advertised, and to fail to disclose to a consumer prior conditions to the consumer if the seller knew of those conditions. Those conditions include bent, cracked, or twisted frame, engine or head crack, vehicle unable to pass state inspection, damage to the transmission, vehicle flood damage, or differential damage. The rule would also make it an unfair and deceptive act or practice to engage in other general misleading advertisement. The proposed rule would also make it an unfair or deceptive act or practice for the manufacturers to furnish replacement parts pursuant to a warranty which are not of equal or superior quality or which change the terms of the original guarantee.

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TITLE 142
LEGISLATIVE RULE
ATTORNEY GENERAL

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 28
LEGISLATIVE RULE PERTAINING TO THE
PREVENTION OF UNFAIR OR DECEPTIVE ACTS OR
PRACTICES IN MOTOR VEHICLE SALES

§ 142-28-1. General

1.1 Rule Designation.--This rule is legislative

1.2 Scope.-- This legislative rule covers certain unfair or deceptive acts or practices covering motor vehicle sales practices in West Virginia, its counties, and all political subdivisions.

1.3 Authority.-- W. Va. Code § 46A-6-103 and § 46A-7-102(e).

1.4 Filing Date.--

1.5 Effective Date.--

1.6 Repeal of Former Rule.-- Not applicable

1.7 Penalties.-- Except as otherwise indicated, a violation of this rule constitutes a violation of Article 6 of the West Virginia Consumer Credit and Protection Act, W. Va. Code § 46A-101 et seq.

1.8 Construction.-- This rule shall be liberally construed to effectuate the purpose of Article 6 of the West Virginia Consumer Credit and Protection Act, W. Va. § 46A-6-101 et seq.

1.9 Severability.-- If, for any reason, any section, subsection, sentence, clause, phrase, or provision of this rule or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other sections, subsections, sentences, clauses, phrases, or provision or its application to any other person or circumstance, and to this end each and every section, subsection, sentence, clause, phrase, or provision of this rule is hereby declared severable.

§ 142-28-2. Definitions

2.1 "Advertisement" means the publication, dissemination or circulation of any matter, oral or written, including labeling,

which tends to induce, directly or indirectly, any person to enter into any obligation, sign any contract, or acquire any title or interest in any goods or services and includes any word device to disguise any form of business solicitation by using such terms as "renewal," "invoice," "bill," "statement" or "reminder," to create an impression of existing obligation when there is none, or other language to mislead any person in relation to any sought-after commercial transaction.

2.2 "Consumer" means any natural person to whom a sale is made in a consumer transaction.

2.3 "Consumer transaction" means a sale to a natural person or persons for a personal, family, household or agricultural purpose.

2.4 "Dealer" means any person or business which sells or offers for sale a used vehicle after selling or offering for sale five (5) or more used vehicles in the previous twelve months, but does not include a bank or financial institution, a business selling a used vehicle to an employee of that business, or a lessor selling a leased vehicle by or to that vehicle's lessee or to an employee of the lessee.

2.5 "Implied warranty" means an implied warranty arising under State law in connection with the sale by a dealer of a used vehicle.

2.6 "Merchantable" means in addition to the qualities prescribed in section three hundred fourteen [§ 46-2-314], article two, chapter forty-six of this code, that the goods conform in all material respects to applicable state and federal statutes and regulations establishing standards of quality and safety of goods and, in the case of goods with mechanical, electrical or thermal components, that the goods are in good working order and will operate properly in normal usage for a reasonable period of time.

2.7 "Service contract" means a contract in writing for any period of time or any specific mileage to refund, repair, replace, or maintain a used vehicle and provided at an extra charge beyond the price of the vehicle.

2.8 "Used vehicle" means any vehicle driven more than the limited use necessary in moving or road testing a new vehicle prior to a delivery to a consumer, but does not include any vehicle sold only for scrap or parts (title documents surrender to the state and a salvage certificate issued).

2.9 "Vehicle" or "motor vehicle" means any motorized vehicle, other than a motorcycle, with a gross vehicle weight

rating (GVWR) of less than 8500 lbs., and a frontal area of less than 46 sq. ft.

2.10 "Warranty" means express and implied warranties described in sections three hundred thirteen, three hundred fourteen and three hundred fifteen [§§ 46-2-313 to 46-2-315], article two section forty-six of the code and the express or actions of a dealer which assures the consumer that the goods have described qualities or will perform in a described manner.

§ 142-28-3. General Duties of a Used Vehicle Dealer; Definitions

3.1 It is an unfair and deceptive act or practice for any used vehicle dealer, when that dealer sells or offers for sale a used vehicle:

3.1.1 To misrepresent the mechanical condition of a used vehicle.

3.1.2 To misrepresent the terms of any warranty offered in connection with the sale of a used vehicle.

3.2 It is an unfair and deceptive act or practice for any used vehicle dealer, when that dealer sells or offers for sale a used vehicle:

3.2.1 To fail to disclose, prior to sale, that a used vehicle is sold with an implied warranty, and the duties thereunder.

3.2.2 To fail to make available, prior to sale, the terms of any written warranty offered in connection with the sale of a used vehicle.

§ 142-28-4. Used Vehicle Sales - Window Form

4.1 General duty. Before offering a used vehicle for sale to consumer the dealer must prepare, fill in as applicable and display on that vehicle a "Buyers Guide" as required by 16 C.F.R. Part 455.

4.2 Form given to buyer. Give the buyer of a used vehicle sold the window form containing all of the disclosures required and reflecting the warranty coverage agreed upon.

4.3 Incorporated into a contract. The information on the final version of the window form is incorporated into the contract for sale for each used vehicle sold to a consumer. Information on the window form overrides any contrary provisions in the contract of sale. To inform the consumer of these facts, include the

following language conspicuously in each consumer contract of sale:

The information you see on the window form for this vehicle is part of this contract. Information on the form overrides any contrary provisions in the contract of sale.

4.4 Contrary statements. The dealer may not make any statements, oral or written, or take other actions which alter or contradict the disclosures required. The dealer may negotiate over warranty coverage, as long as the final warranty terms are identified in the contract of sale and summarized on the copy of the window form you give to the buyer.

§ 142-28-5 General Duties In All Vehicle Sales

It shall be an unfair and deceptive act or practice for a motor vehicle dealer to :

5.1 Represent either directly or indirectly that certain motor vehicles advertised or sold by dealers are "factory executive," "factory official," "factory program", "executive vehicles," words of like, import, or words other than "used rental car" if the vehicle has been used as such, unless such vehicle has been purchased directly from the manufacturer or a subsidiary of the manufacturer and the vehicle has been used exclusively by the manufacturer, its subsidiary or a dealer of the commercial or personal use of the manufacturer's, subsidiary's or dealer's employees.

5.2 Represent either directly or indirectly that certain motor vehicles advertised or sold by the dealer are "demonstrators" or "demos" unless such vehicles have been driven by prospective consumers of that or another dealership selling the vehicles.

5.2.1 Failing to prepare a written contract for the sale of a motor vehicle and failing to provide the consumer with a copy of the same at the time the consumer signs the contract.

5.2.2 Using a printed or written contract form agreement, receipt, or invoice in connection with the sale of a motor vehicle which is not clearly identified and which does not contain the following:

5.2.2.1 The name and address of the dealer and consumer.

5.2.2.2 The make, model, year, and vehicle identification number of the vehicle purchased and the trade-in vehicle if any.

5.2.2.3 A description of the purchased vehicle as

either "new" or "used" and, if used, a brief description of its prior usage such as "executive," "demonstrator," "reconstructed," or any prior usage which is required to be noted on a Certificate of Title or which appears on the title of any state through which the dealer has acquired ownership.

5.2.2.4 The total contract price, including an itemized list of all charges for any repair, service, dealer-installed optional accessories, and documentary preparation which are not included in the purchase price.

5.2.2.5 A list of all conditions precedent to the dealer's acceptance of the contract set fourth in a clear and conspicuous manner as well as a statement that the purchaser may cancel the contract at any time until the conditions are met; for example, if the contract must be signed by an authorized dealer representative, the document shall state, in a form, substantially as follows:

This contract is not binding upon either the dealer or the purchaser until signed by an authorized dealer representative.

YOU, THE BUYER, MAY CANCEL THIS CONTRACT AND RECEIVE A FULL REFUND ANY TIME BEFORE RECEIPT OF A COPY OF THIS CONTRACT SIGNED BY AN AUTHORIZED DEALER REPRESENTATIVE BY GIVING WRITTEN NOTICE OF CANCELLATION TO DEALER.

5.2.2.6 A brief statement of any express warranty, such as "Manufacturer's limited warranty" or "Our own 90-day full warranty," and the place where a full copy of the written warranty may be obtained.

5.2.3 Failing to provide a consumer, at no additional charge, an exact copy of each document required by law to be provided including, but not limited to the agreement of sale, installment sales contract, odometer statement, and warranty and any other document in which legal obligations are imposed on the buyer. Copies of any other documents signed by the purchaser shall be made available for a not unreasonable fee.

5.2.4 Using in any motor vehicle purchase contract a liquidated damage clause or any similar clause which requires the forfeiture of a consumer's deposit or security when the consumer cancels or breaches the contract unless: the clause contains a specific dollar amount or item to be retained by the dealer; the clause is clear and conspicuous; the consumer assents to such clause by initialing the same; and the clause is not otherwise unlawful.

5.2.5 Representing that a motor vehicle offered for sale can or will be delivered on or about a certain date or within

a specific period when the dealer knows or should know that the vehicle cannot be delivered by or within the time specified or when the dealer has no information on which to base such a representation.

5.2.6 Failing to refund the full amount of a consumer deposit promptly when:

5.2.6.1 The consumer cancels the contract prior to its acceptance by an authorized dealer representative.

5.2.6.2 The contract is conditioned upon the consumer obtaining financing of his choice and the consumer cannot obtain such financing after exerting reasonable efforts to do so.

5.2.6.3 The dealer does not accept the contract.

5.2.6.4 The dealer fails to deliver to the purchaser a motor vehicle which conforms to the terms of the contract.

5.2.6.5 The consumer cancels the contract because the dealer fails to deliver the motor vehicle within the time specified in the contract or, if no time period is specified, within eight weeks after the date of the contract unless the delay is caused by acts beyond the control of the dealer and the manufacturer.

5.2.7 Increasing the contract price of a motor vehicle after the contract has been accepted by the dealer or the authorized dealer representative unless the increase is due to the passage of a law or regulation of the United States or the State which : requires the addition of new equipment to certain vehicles; changes transportation costs or existing tax rates; or, in the case of foreign-made vehicles, is due to a revaluation of the United States dollar vis-a-vis the currency of the country of manufacturer.

5.2.8 Reappraising the value of a trade-in vehicle unless the dealer can establish that the vehicle has suffered damage or serious mechanical deterioration since the date of the valuation but prior to its delivery to the dealer, or unless parts or accessories, or both, including tires, have been removed or replaced with parts or accessories of inferior quality.

5.2.9 Where no express warranty is given, attempting to exclude the implied warranties of merchantability and fitness for a particular purpose in the sale of a motor vehicle purchased primarily for personal, family, agricultural, or household purposes.

5.2.10 Failing to forward to the proper agency all amounts and forms tendered by a consumer, such as sales tax and

transfer and registration fees, within the time prescribed by law.

5.3 Represent the previous usage or status of a motor vehicle to be something that, in fact, it was not; or make such representations unless the dealer has proper information regarding the history of the vehicle to support the representations; or suppress or omit a material fact.

5.4 Represent the quality of care, regularity of servicing or general condition of any motor vehicle unless known by the dealer to be true and supportable by material fact; or suppress or omit a material fact with support thereto.

5.5 Represent either orally or in writing that a particular motor vehicle has not sustained structural or substantial skin damage unless such statement is made in good faith and unless such vehicle has been inspected by the dealer, his agent or representative to determine whether or not such a vehicle has incurred such damage in the past.

5.6 Sell a motor vehicle without fully and conspicuously disclosing in writing at or before the consummation of sale any warranty or guarantee terms, obligations and conditions that the dealer or manufacturer has given to the buyer of the motor vehicle. If the express warranty obligations are to be shared by both the dealer and the buyer then the method of determining the percentage of monetary repair costs to be assumed by both parties shall also be disclosed. As to the implied warranty the dealer shall disclose that the dealer will correct of the dealer's expense defects in goods that do not operate properly in normal usage for a reasonable period of time.

5.7 Provide an express or implied warranty and fail to honor such warranty.

5.8 Misrepresent warranty coverage, application, period, any warranty transfer cost to the consumer, or conditions which are given by the dealer, factory or other party.

5.9 Obtain signatures from consumers on contracts which are not fully completed at the time signed or which do not reflect accurately the negotiations and agreement between the consumer and the dealer.

5.10 Require or accept a deposit from a prospective consumer prior to entering into a mutually binding valid contract for the purchase and sale of a motor vehicle unless the consumer is given a written receipt which states how long the dealer will hold the motor vehicle from other sale, the amount of the deposit, and clearly and conspicuously states whether the deposit is refundable

or non-refundable and upon what conditions.

5.11 Add to the cash price of a motor vehicle, any fee or charge other than those required by law. All fees or charges permitted to be added to the cash price must be fully disclosed to consumers in all mutually binding valid contracts concerning the motor vehicle's selling price.

5.12 Alter or change the odometer milage of the motor vehicle.

5.13 Sell a motor vehicle without disclosing in writing to any consumer the actual year and model of the motor vehicle, the VIN, manufacturer, description "new" or "used" and a brief description of its prior usage such "demonstration," "rental car" or "reconstructed."

5.14 Increase the price of the motor vehicle after having accepted an order of purchase or a contract from a consumer not withstanding subsequent receipt of an official price change notification. The price of a motor vehicle may be increased after having accepted an order of purchase or a contract of a consumer where a trade-in vehicle is reappraised if it subsequential suffered damage, or parts or accessories have been removed, the price increase is caused by the addition of new equipment as required by state or federal law, the price increase is caused by the reevaluation of the U.S. dollar by the U.S. government in the case of foreign made vehicles, or the price increase is caused by state or federal tax rate changes.

5.15 Advertise the price of a motor vehicle unless the vehicle is identified as to year, make, model, and the commonly accepted trade, brand, or style name. In addition, the advertised price must include all fees or charges which the consumer must pay for the vehicle; including but not limited to, "freight" or "destination charge," "dealer preparation," and "undercoating," or "rust-proofing." State and local taxes, tags, registration and title fees, unless otherwise required by local law or standard, need not to be disclosed in the advertisement, but the nature of all such charges which are not included in the advertised price must be disclosed in the advertisement.

5.16 Charge a consumer money for any pre-delivery service required by the manufacturer, distributor or importer, to the extent the motor vehicle dealer is reimbursed by the manufacturer, distributor or importer.

5.17 Charge a consumer money for any pre-delivery service without having printed on all documents which include a line item for said pre-delivery service, the following disclosure: "This

charge represents cost and profit to the seller/dealer for items such as inspecting, cleaning and adjusting new and used vehicles and preparing documents related to the sale."

5.18 Where the motor vehicle under consideration by a prospective consumer is available for physical inspection by the purchaser, the motor vehicle dealer may attach a conspicuous sticker to the window of a motor vehicle specifying any charge for pre-delivery services for that motor vehicle and describing said charge as pre-delivery services, delivery and handling, dealer preparation, or words of similar import, along with the motor vehicles dealer's charge for each dealer installed option and a total price line.

5.19 If the motor vehicle dealer discloses the pre-delivery service charge in the manner set fourth in paragraph 5.18, the motor vehicle dealer shall not charge or set forth an itemized separate or additional charge for pre-delivery service charge on any sales documents.

5.20 Fail to prepare a written contract educating the sale and provide the consumer with a copy of the same at the time of signing.

5.21 Engage in any other activity that is misleading or deceptive.

§ 142-28-6. ADVERTISING AND SALES PRESENTATION REQUIREMENTS.

With respect to any advertisement or sales presentation offering or making available for sale a motor vehicle or maintenance service or repair on a new or used motor vehicle, the following will be considered unfair methods of competition and unfair and deceptive acts or practices:

6.1 The use of different type, size, style, location, sound, lighting or color, so as to obscure or make misleading any material fact in any advertisement or sales presentation.

6.2 The misrepresentation in any way of the size, inventory, or nature of the business of the advertiser or seller; the expertise of the advertiser or seller or his agents or employees; or the ability or capacity of the advertiser or seller to offer price reductions.

6.3 The use of an advertisement or sales presentation as part of a plan or scheme not to sell the vehicles or services advertised, or both, or not to sell the vehicles or services advertised or presented at the advertised price. The following will be prima facie evidence of a plan or scheme not to sell the

motor vehicles or services or not to sell such vehicles or services at the advertised or represented prices:

6.3.1 Refusing to show, display, sell, or otherwise provide the goods and services advertised in accordance with the terms of the advertisement.

6.3.2 Disparaging by act or word the advertised goods and services; the warranty; the credit terms; the availability of service, repairs, or parts; or anything which in any other respect is a material fact connected with the sale of the advertised goods or services.

6.3.3 Refusing to take orders for advertised goods or services or taking orders at a price greater than the advertised price.

6.3.4 Showing, demonstrating, or delivering any advertised goods or services which are obviously defective, unusable, or unsuitable for the purpose represented or implied in the advertisement or sales presentation.

6.3.5 Accepting a deposit for any advertised goods or services, then switching the purchaser to higher priced goods or services.

6.3.6 Failing to make delivery of the advertised goods and services within the promised delivery period unless such failure is caused by reasons beyond the control of the advertiser.

6.3.7 Using a sales plan or method of compensating or penalizing sales persons which is designed to prevent or discourage them from selling advertised goods and services from selling the same at the advertised price; this subparagraph shall not apply to a sales plan or method of compensation whereby a salesperson realizes a fixed percentage rate of the gross amount of sales made by such salesperson within a specific time period nor to a sales person bonus plan designed to encourage or reward the selling of all goods and services offered by the advertiser, including those advertised.

6.4 The failure or refusal to sell a motor vehicle or any other goods or services in accordance with any terms or conditions, including price or warranty, which a dealer has advertised or otherwise represented.

6.5 The representation in an advertisement or sales presentation that a motor vehicle or motor vehicle goods or services are of a particular style, model, standard, quality, or grade if they are of another or if such representation conflicts

with any written notice or discloser required under this chapter. Any motor vehicle which is offered for sale is represented to be road worthy, and the advisor or seller must disclose prior to sale the following conditions if the advertiser or seller knows or should know that such conditions exist in the motor vehicle:

6.5.1 Frame bent, cracked, or twisted.

6.5.2 Engine block or head cracked.

6.5.3 Vehicle unable to pass state inspection.

6.5.4 Transmission damaged, defective, or so deteriorated as to require replacement.

6.5.5 Vehicle flood damaged.

6.5.6 Differential damaged, defective, or so deteriorated as to require replacement.

6.6 The making of any representation or statement of a fact in an advertisement or sales presentation if the advertiser or dealer knows or should know that the representation or statement is false and misleading or if the advisor or sales person does not have sufficient information upon which a reasonable belief in the truth of the representation could be based.

6.7 The advertising by a motor vehicle dealer of any motor vehicle for sale or of any motor vehicle repair or maintenance service in which the advertisement does not disclose the business name and address of the advertiser or the word "dealer."

6.8 The advertising by a motor vehicle dealer of the price or specific dollar amount of a motor vehicle or a motor vehicle repair or maintenance service unless such price includes all charges of any type which are necessary or usual prior to delivery of such vehicle or service to a purchaser including but not limited to charges for freight, handling, and vehicle preparation but excluding taxes and registration and licensing costs in the case of a new or used motor vehicle and including all parts and labor in the case of motor vehicle service.

6.9 The advertising of a motor vehicle dealer of a motor vehicle for sale at a specified price if such price does not include all equipment with which such models of motor vehicles are minimally equipped by the manufacturer unless the advertisement clearly and conspicuously discloses that such equipment is not included in the advertised price.

6.10 The use, by a motor vehicle dealer in an advertisement

for the sale of motor vehicles, of such terms as "fully equipped" or words of similar meaning; except that an advertiser is not prohibited from identifying certain specified equipment as standard factory equipment if such is in fact true.

6.11 The advertising by a motor vehicle dealer of a motor vehicle for sale in which the year, make, model, and series, if the advertised motor vehicle has a designated model or series, are not clearly disclosed.

6.12 The advertising by a dealer in which the advertisement states directly or by implication that the price of the motor vehicle or motor vehicle maintenance or repairs advertised is a reduction from the usual price, including but not limited to those advertisements which contain either a specific dollar amount of reduction or a percentage of reduction from the usual price, including but not limited to those advertisements which contain either a specific dollar amount of reduction or a percentage of reduction from usual selling price, unless such price from which a reduction is indicated is the usual price at which the advertised goods or services, or both, have been sold or offered for sale. For the purpose of this paragraph, the terms "sale," "discount," "price cut," "special," "savings," and any other similar words or phrases shall be deemed to indicate a price reduction advertisement.

6.13 The advertising by a dealer of a price reduction in the sale of a motor vehicle or motor vehicle maintenance or repair service unless the advertised sale price constitutes a bona fide substantial reduction from the usual selling price or the advertisement discloses the actual dollar amount of reduction or percentage of reduction.

6.14 The advertising by a dealer of a price reduction in the cost of motor vehicles or motor vehicle maintenance or repair services for which the manufacturer, dealer, or shop in whose name the advertisement is placed does not maintain records necessary to establish the usual selling price of the motor vehicles, goods, or services upon which the price reduction is advertised. Such records shall be maintained for a period of 60 days following the termination of the offer and shall be made available for inspection upon demand during business hours. The failure of the dealer to substantiate the usual selling price through documentation shall constitute a presumption that the price reduction advertisement was not predicated upon a reduction from the usual selling price and that the claimed reduction was neither substantial nor bona fide as required by of this section.

6.15 The advertising by a motor vehicle dealer of a specific motor vehicle offered for sale where no advertised vehicle is in

the stock of the advertiser on the date of placing the advertisement unless such advertisement states "Not in Stock" or "Order Yours Now" or other phrases of similar import which will clearly indicate that such vehicles are not available for immediate delivery will be made.

6.16 The advertising by a dealer of a sale or promotion in connection with the sale of a motor vehicle or motor vehicle maintenance or repair services unless the advertisement clearly and conspicuously discloses the expiration date, if any, and any other conditions of such sale and promotion, including but not limited to whether the supply of vehicles or other sale goods is limited and, if so, in what manner.

6.17 The advertising of a motor vehicle dealer of a motor vehicle for sale at a price or price comparison which represents less than the total cash price to be paid by a retail purchaser unless the advertisement clearly and conspicuously discloses that such a price is offered with reference to a trade-in or other method of price reduction and discloses the amount of such allowance. A set-off, discount, trade-in allowance, or other such price reduction shall be shown as a specific dollar reduction from the advertised price required in this paragraph and shall be incorporated with the advertised price.

6.18 The advertising by a motor vehicle dealer of the price which shall be paid by such dealer for trade-in vehicles unless the price of the motor vehicles offered for sale from such dealer to the owner of each trade-in vehicle is within the range of prices at which the dealer usually sells such vehicles and is not increased because of the amount offered for the trade-in vehicle.

6.19 The advertising of a motor vehicle dealer of a specific price to be paid by such dealer for trade-in vehicles unless either the advertised price will be paid for all trade-in vehicles, regardless of their condition or age or unless the advertisement clearly and conspicuously discloses any conditions which trade-in vehicles must meet before such price will be paid.

6.20 The advertising by a motor vehicle dealer that a range of prices, such as, "up to \$700" or "as much as \$700," will be paid by such dealer for trade-in vehicles unless the advertisement clearly and conspicuously discloses the criteria which the dealer will use to determine the amount to be paid for a particular vehicle.

6.21 The advertising or presenting for sale by a motor vehicle manufacturer, dealer, or repair shop in which a warranty or guaranty is referred to or offered unless the manufacturer, dealer, or repair shop complies with all requirements of 15 U.S.C.

§§ 2301 - 16 C.F.R. §§ 700 - 703.

6.22 The use in an advertisement or sales presentation by a dealer of the term "satisfaction guaranteed or your money back," "free trial period," or other similar phrases when the advertiser or dealer does not intend to promptly make a full refund within a reasonable period of time not to exceed five days. Any reasonable conditions or limitations of such offer must be clearly and conspicuously disclose at the time of making the offer.

§ 148-28-7. GENERAL PROVISIONS - MANUFACTURER.

With respect to any manufacturer, the following shall be considered unfair methods of competition and unfair and deceptive acts or practices:

7.1 The furnishing replacement parts or equipment for motor vehicles pursuant to the terms of a warranty or guarantee which are not of equal or superior quality or which change to the terms of the original warranty or guarantee.

7.2 Failing to furnish to its dealers price lists or change notices for motor vehicles, optional equipment, accessories, and transportation or destination charges on which dealers may rely in executing contracts with purchasers.

7.3 To increase prices of motor vehicles which the dealer had ordered for private retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each such order.

7.4 Substituting for identified specified equipment any other equipment unless the purchaser is immediately notified in writing of the proposed substitution and is given the opportunity to rescind the purchase agreement within five days of notification of such substitution.

7.5 Failing to cancel upon request a purchase order and to refund to the dealer all monies received when unable to deliver a motor vehicle as ordered within eight weeks of the date of the purchase order: unless the purchase order specifies a longer time period for delivery; unless the dealer was notified, prior to the date of the purchase order, of a longer delivery period; or unless the delay is caused by acts beyond the control of the manufacturer.