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**Rules of**  
**Department of Revenue**  
**Division 60—Motor Vehicle Commission**  
**Chapter 5—Advertising Practices**

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## Title 12—DEPARTMENT OF REVENUE

### Division 60—Motor Vehicle Commission Chapter 5—Advertising Practices

#### 12 CSR 60-5.010 Advertising Practices for Motor Vehicle Dealers

*PURPOSE: This rule implements the intent of the legislature as described in Missouri Motor Vehicle Commission law, sections 301.553.8. and 301.562.2(5) and (11), RSMo by regulating the advertising practices of the licensees by requiring truthful and accurate advertising practices in the sales or leasing, or both, of motor vehicles for the benefit of the citizens of this state.*

(1) Definitions. The following words and terms, when used in this rule, shall have the following meaning, unless the context clearly indicates otherwise:

(A) Advertisement (including the terms advertise and advertising)—means an oral, written, graphic or pictorial statement made in the course of soliciting business, including, but not limited to, a statement or representation made in a newspaper, magazine or other publication or periodical literature, or contained in a notice, sign, billboard, poster, display, circular, pamphlet, letter, dealership price addendum or on radio or television;

(B) Bait advertisement—means an alluring but insincere offer to sell a product, the primary purpose being to obtain leads to persons interested in buying merchandise of the type advertised and to switch consumers from buying the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser;

(C) Clear and conspicuous (including the terms clearly and conspicuously)—means that the statement, representation or disclosure is of a size, color, contrast and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning. This standard shall be met by the following:

1. In print which is dark enough and in type of such size that it is able to be read without unreasonable extra effort by the average consumer;

2. In audio which is loud enough and slow enough that it is able to be heard and understood without unreasonable extra effort by the average consumer;

3. Expressed in terms which are understandable to the average consumer; and

4. Adjacent or in close proximity to the qualified statement or representation, or in a box with a heading such as restrictions or disclosures;

(D) Dealership price addendum—means a form which is to be displayed on a window of a new motor vehicle when the dealer installs special features, equipment, parts or accessories or charges for services not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer;

(E) Disclosure—means that required information which is clear, conspicuous and accurate has been revealed to consumers or potential consumers;

(F) Illustration—means any pictorial representation, including but not limited to, photographs, drawings or sketches;

(G) Licensee—means a person(s) or entity that has obtained or that are required to obtain a license from the Missouri Motor Vehicle Commission; and

(H) Verifiable—means that the licensee has in his/her possession information sufficient to form a reasonable belief that the description, claim, statement, phrase or representation used by a licensee in his/her advertisements, in fact, is accurate.

(2) General Prohibition. Licensees may not use any advertisement or solicitation which is false or misleading. Specific rules are as follows:

(A) Where licensees advertise locally in line group associations, licensees shall be held individually responsible for any violations;

(B) Licensees must clearly and conspicuously identify their dealership in all advertising, including classified advertising, by the name under which they are licensed with the Missouri Motor Vehicle Commission;

(C) Licensees must clearly and conspicuously feature all necessary information in a manner that can be read and understood (if type is used) or which can be heard and understood (if audio is used);

(D) Illustrations must be of the advertised vehicle or equipment, or the advertisement must clearly and conspicuously disclose the difference between the illustration and the vehicle or equipment being offered for sale;

(E) Licensees must clearly and conspicuously disclose in any advertisements any limitations, including, but not limited to, the availability of a single vehicle or a number of vehicles in stock or, if the vehicle must be ordered, the period of time during which the offer is in effect and any other applicable restrictions;

(F) Licensees shall not use initials and abbreviations in any advertisement which are confusing, misleading or not commonly

understood by the general public, unless the initials and abbreviations are clearly and conspicuously disclosed in the advertisement. Examples are as follows:

1. General abbreviations commonly understood: AC, AM/FM, auto, air, 2dr, cyl, A.P.R., and e.g.; and

2. Trade industry abbreviations not commonly understood: W.A.C. (with approved credit), A.D.P. (additional dealer profit), F.T.B. (first time buyer), doc fee (document fee);

(G) Licensees shall not use unfair, misleading or bait advertising. Even though the true facts are subsequently made known to the prospective buyer, the rules are violated by the licensee if the first contact or interview is secured by deception.

1. No advertising containing an offer to sell a product shall be published when the offer is not a *bona fide* effort to sell the advertised product, as evidenced by the seller's statements, remarks and general conduct towards consumers or potential consumers.

2. No statement or illustration or picture shall be used in any advertisement which creates a false impression of the year, make, model, value or color of the vehicle(s) or equipment offered, or which may otherwise misrepresent the vehicle(s) or equipment.

3. Motor vehicles advertised for sale shall be in the possession of the dealer as advertised at the address given, unless other conditions pertaining to availability are clearly and conspicuously disclosed.

4. Motor vehicles advertised for sale shall be in condition to be demonstrated, and shall be willingly shown and sold at the advertised prices and upon the terms advertised, unless other conditions pertaining to availability are clearly and conspicuously disclosed.

5. Licensees shall have available to all outlets listed in the advertisement, the number of motor vehicles advertised to meet reasonably anticipated demands, unless the advertisement clearly and conspicuously discloses that a supply is limited, the merchandise is available only at designated outlets, or both.

6. Licensees shall not accept a deposit for any advertised product with the intent of switching the purchaser to a higher priced product;

(H) When a licensee advertises the price of a vehicle, the advertisement must clearly and conspicuously identify the year, make and model of the vehicle. The price must include all charges under the following standards:

1. The advertised price shall represent the total delivered price excluding the following: state and local taxes, trade-in allowances or rebates; and

2. If the licensee reduces the total delivered price in the advertisement by the amount equal to the factory or consumer rebate, or



both, it shall be clearly and conspicuously disclosed;

(I) Licensees may use the word free if the prize, gift or other incentive is not contingent upon the purchase of a motor vehicle. Example: A dealer may give away soft drinks or balloons to a prospective customer if that prospective customer is not required to purchase a vehicle to receive the items;

(J) Licensees shall not advertise guaranteed or range trade-in prices.

(K) Licensees shall not advertise any vehicle as a demonstrator, executive or official vehicle if that vehicle has been sold or leased to the public.

1. When advertising a vehicle as a demonstrator, executive or official vehicle, the year, make and model must be disclosed.

2. A motor vehicle may be advertised as a demonstrator if the vehicle—

A. Is of the current or previous model year;

B. Was used as a demonstrator by the licensee or another licensee of the same line-make and was transferred to the licensee on the manufacturer's Statement of Origin;

C. Is of the licensee's franchised line-make; and

D. Is currently in inventory.

3. A motor vehicle may be advertised as a manufacturer's executive vehicle or official vehicle if the vehicle was used exclusively by an official authorized by the manufacturer;

(L) Licensees shall not advertise any vehicle as a program vehicle, factory repurchase vehicle or any other similar term or phrase, except under the following circumstances:

1. The vehicle was sold or leased by the manufacturer to a rental or fleet company and then repurchased by the manufacturer from the rental or fleet company under a specific manufacturer's program; and

2. The following is clearly and conspicuously disclosed: This vehicle is a program vehicle;

(M) Licensees shall not advertise a motor vehicle with regards to the invoice price, dealer cost, or any similar term or phrase as consumers equate invoice with cost which is misleading and prohibited;

(N) The dealership price addendum must not be construed to represent any portion of the manufacturer's suggested retail price, invoice price, or any other similar terms or phrases. The addendum is to disclose—

1. Any added feature, service, equipment, part or accessory charges added by the dealership and the accurate retail price; and

2. That it is supplemental to the manufacturer's label;

(O) Licensees shall not make or use any description, claim, statement, phrase or representation concerning, but not limited to,

the dealership, dealer status, sale, sales event and credit terms, or the vehicle, equipment, guarantee, feature, service or accessory, or any part which is not verifiable. No unsupported descriptions, claims, statements, phrases or representations may be used;

(P) Licensees shall not make or use descriptions, claims, statements, phrases or representations such as factory authorized sale, factory outlet, authorized distribution center, wholesale warehouse or any similar descriptions, claims, statements, phrases or representations which indicate a special affiliation, connection or relationship with the manufacturer which is greater or more direct than that of any other dealer of the same line-make;

(Q) Licensees shall not make or use descriptions, claims, statements, phrases or representations such as write your own deal, appraise your own car, name your price, which states or implies that a consumer may purchase any vehicles currently in inventory or able to be ordered at any price the consumer chooses or desires, without any limitations or minimum required amount whatsoever;

(R) Licensees shall not make or use descriptions, claims, statements, phrases or representations such as liquidation sale, public notice, closing out sale, forced to vacate sale or going out-of-business sale, unless this is verifiable. Upon disposal of the stock currently in dealership inventory; this standard shall be met by the following circumstances:

1. The business will cease and discontinue at the premises or licensed, *bona fide* place of business at which the sale is conducted; and

2. The licensee shall surrender the license and license plates to the Missouri Motor Vehicle Commission;

3. This shall not apply to the use of terms and phrases such as moving sale or model year close out or other qualified terms or phrases which are used for similar purposes or have similar meanings.

(S) Licensees shall not advertise credit terms that are not actually available;

(T) Licensees shall not advertise no down payment required if a down payment is required;

(U) Licensees shall not advertise credit terms disclosing the amount or percentage of down payment, the number of payments, the period or repayment, the amount of any payment expressed as a percentage or a dollar amount or the amount of any finance charge unless the licensee clearly and conspicuously discloses—

1. The annual percentage rate in fixed or variable interest, manufacturer-sponsored financing, or both;

2. The terms of repayment;

3. The amount or percentage of the down payment or trade-in required, or a statement that no downpayment or trade-in is required; and

4. A statement that the annual percentage rate is subject to be increased after the contract is signed, if such is the case;

(V) Licensees shall not offer an annual percentage rate if, in order to secure the advertised rate, the consumer must pay an additional cost;

(W) Federal Trade Commission (FTC) guidelines—Licensees shall not advertise the amount of any lease payment, the number of required lease payments, or a statement that no down payment or other payment is required at the beginning of the lease unless the licensee clearly and conspicuously discloses—

1. A statement that the advertised transaction is a lease;

2. The total amount of any payment, such as a security deposit, required at the beginning of the lease; or

3. A statement that no such payment is required;

4. The number, amounts, due dates or periods of scheduled payments under the lease;

5. A statement of whether the consumer has the option to purchase the vehicle.

A. At what time during the lease the consumer has the option to purchase the vehicle.

B. At what price or the method for determining the price;

6. Any liabilities the lease imposes on the consumer at the end of the term; and

7. Any advertisement which complies with the Consumer Leasing Act of 1976 (15 U.S.C. 160 et seq.) and the amendments thereto, and any regulations issued thereunder, shall be deemed in compliance with the provisions of this regulation.

(X) Licensees shall not advertise a rebate or coupon, or any similar description, claim, statement, phrase or representation, unless the rebate or coupon is offered by and paid by the manufacturer or distributor directly to the consumer, except under the following standards:

1. Licensees may advertise a cash rebate through a manufacturer's rebate program if the licensee clearly and conspicuously discloses—

A. The type of rebate being made, expressed by name or with a general description of who qualifies for the rebate;

B. The amount of the rebate; and

C. The price of the vehicle has been increased accordingly, if this is the case;

(Y) Licensees shall not advertise a guarantee or warranty, or any similar description, claim, statement, phrase or representation unless the time period and the coverage of this

guarantee or warranty is clearly and conspicuously disclosed. This standard shall be met by the following:

1. Any consumer, or any potential consumer, upon request, is provided with a written document stating the specific terms and coverage of the guarantee or warranty; and

2. In this circumstance where the warranty or guarantee is optional, the price of that warranty or guarantee is clearly and conspicuously disclosed;

(Z) Licensees shall not advertise a ninety (90)-day guarantee, six (6)-month warranty or any other similar description, claim, statement, phrase or representation, except under the following standards:

1. The licensee will pay for all needed repairs, including, but not limited to, parts and labor; or

2. The licensee clearly and conspicuously discloses the terms and limitations to the warranty or guarantee (for example—parts guaranteed, labor extra); and

3. Licensee clearly and conspicuously discloses the terms of any deductible, if this is the case;

(AA) Licensees shall not make any reference to matching or bettering competitors' prices in any advertisement unless all limitations are clearly and conspicuously disclosed. Any policy shall not place an unreasonable burden on the consumer; and

(BB) Licensees shall be subject to penalty provisions for violation(s) of this chapter under the following guidelines:

1. Authority to investigate potential violations of this chapter by a licensee is delegated by the commission to the executive director and staff. The staff may conduct an investigation or other review pursuant to a complaint or other information received from any source indicating a possible violation. The staff and the executive director will then consult as to the results of the investigation and jointly arrive at a recommendation for appropriate disciplinary action, if a violation is found to have occurred.

2. Should the executive director, staff, or both, elect to pursue disciplinary action against the licensee, a hearing will be held before a hearing officer designated by the commission. Any decision to pursue disciplinary action shall be subject to approval of a majority of the commissioners. Notice shall be given, and the hearing and any review shall be conducted in accordance with the procedures set forth in 12 CSR 60-4.040(2)—(11), 12 CSR 60-4.060, 12 CSR 60-4.070 and 12 CSR 60-4.080. Should the executive director elect not to pursue a disciplinary hearing, s/he shall have the discretion to issue a warning letter advising the licensee of any violation of this chapter revealed by staff investigation, and

shall require licensee to respond in writing. The warning letter, along with the licensee's response, shall be placed in licensee's permanent file;

3. The hearing officer shall have those duties and powers as set forth in 12 CSR 60-4.050, in addition to those in this rule;

4. Not later than sixty (60) days after the hearing, the hearing officer shall enter his/her final decision, separately stating findings of fact and conclusions of law. The commission, immediately upon the hearing officer's decision, shall give written notice of the decision by mailing notice to each party or his/her attorney of record, and shall furnish him/her with a copy of the decision, order, findings of fact and conclusions of law; and

5. In his/her written decision, the hearing officer shall have the authority to issue a private reprimand, place the licensee on probation under those terms and conditions as are just under the circumstances for a period of one (1) day to five (5) years, suspend the license of the violating dealership for a period of from one to six (1—6) day(s) or revoke the dealership license for a period as the hearing officer deems appropriate under the circumstances. The hearing officer shall take into consideration licensee's prior violation history under this chapter, if any, in determining disciplinary terms. In the event of review by the commission, the commission shall be provided with licensee's prior violation history under this chapter, if any.

*Auth: sections 301.553 and 301.562, RSMo (1994). \* Emergency rule filed Feb. 3, 1993, effective March 1, 1993, expired June 28, 1993. Original rule filed Oct. 2, 1992, effective June 7, 1993. Amended: Filed Aug. 11, 1993, effective Jan. 31, 1994. Emergency amendment Sept. 14, 1994, effective Sept. 24, 1994, expired Jan. 21, 1995. Amended: Filed Sept. 14, 1994, effective April 30, 1995.*

*\*Original authority: 301.553, RSMo (1988), amended 1989, 1993 and 301.562, RSMo (1988), amended 1993.*