



Newsletter of the
Colorado Motor Vehicle
Dealer Board
and
Auto Industry
Division

February 2000, Vol. XXVI, No. 1

DEALER BOARD ADVERTISING RULES MODIFIED

The Colorado Motor Vehicle Dealer Board modified the advertising rules after holding a public hearing. Regulation 12-6-118(3)(k) is effective January 10, 2000. These rules, as well as other state and federal statutes and regulations, such as Regulation Z and Regulation M, must be followed in all advertising by a licensed motor vehicle dealer.

An advertisement is any commercial message in any newspaper, magazine, leaflet, flyer, or catalog, on radio, television or public address system, in direct mail literature or other printed material, on any interior or exterior sign or display, in any window display, on a computer display, or in any point-of-transaction literature or price tag, that is delivered or made available to a customer or prospective customer in any manner whatsoever; except that such term does not include materials required to be displayed by federal or state law.

Motor vehicle dealers cannot advertise to create the false impression that a vehicle is being offered by a private party. The dealer's name or the word "dealer" must be included in the advertisement or both name and the word "dealer" if the name appears but does not clearly reflect that the business is a dealer.

REGULATION 12-6-118(3)(k)

Advertising shall be construed to be misleading or inaccurate in the following particulars:

Rule 1. Advertising a motor vehicle which is not in operable condition unless specifically disclosed.

Rule 2. Advertising which would imply the dealer is going out of business when such is not the case.

Rule 3. Advertising a specific motor vehicle for sale or lease with price or terms quoted, without fully identifying the vehicle as to year, make, model and dealer stock number. Such vehicle shall be willfully shown and sold at the advertised price and/or terms while such vehicle remains unsold or unleased, for a period of five days following the last date the ad was published, unless the ad states that the advertised price and terms are good only for a specific time and such time has elapsed. If a specific number of motor vehicles is advertised, such vehicles must have been invoiced to the dealer.

Rule 4. Using a picture or photograph of a vehicle in advertising when the picture or photograph is not the same make, year and equipment actually being offered for the price or terms advertised.

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Director's Desk by Kirk Martelon, Executive Secretary

The Motor Vehicle Dealer Board would like to receive feedback from dealers and salespersons on the Mastery Exam. The Board would like to know if the Mastery Exam is providing an effective means of testing the knowledge of new hires.

The Dealer Board asks each dealer to respond to the following questions. Please provide your thoughts to the Auto Industry Division, 1881 Pierce St, Lakewood CO 80214 or FAX to (303) 205-5977. You may respond confidentially or with your name and phone number.

(1) Do you think that the Exam is a fair measure of testing an applicants' knowledge?

(2) Do you think that the Mastery Exam is a fair

and practical way of testing new applicants?

(3) Do you have any suggestions on other means of testing new applicants?

(4) Is the Exam easy to administer?

(5) Is the Mastery Exam, including its testing procedures, better than the old way of testing applicants when they took the exam at Driver License Offices?

(6) Do you think that the integrity and security of the exam are intact? Are you aware of a breach of integrity on the Mastery Exam? Do you have suggestions to protect the Exam's integrity?

(8) What material would you like to see added to or removed from the Exam?

Dealer Board Advertising Rules cont'd from page 1

Rule 5. Advertising in such a manner which utilizes an asterisk or other reference symbols to contradict or materially change the meaning of any advertising statements.

Rule 6. Advertising used motor vehicles to create the impression that they are new or using the word 'new' when advertising used vehicles, such as 'new, used cars'. Any vehicle of the current model or the previous model year which is a used vehicle shall be so identified in any advertisement for said vehicle.

Rule 7. Advertising motor vehicles which are known by the dealer to be salvage or rebuilt from salvage, taxi cabs, flooded vehicles or police vehicles, which are not so identified in the advertisement.

Rule 8. Advertising in any manner to imply that a purchaser will be receiving benefits of any existing loan on a vehicle when no such benefit exists.

Rule 9. Advertising or making statements that are not true or that cannot or will not be honored. Advertising which creates the false impression that the purchaser will determine the terms, price or conditions of a sale, such as "write your own deal," "name your own price," "no reasonable offer refused," and "we will not be undersold." Advertising any item as "free" which is associated with or conditioned upon the negotiated sale of a motor vehicle.

Rule 10. Advertising sales prices for used motor vehicles which claim or imply a specific savings or discount without clearly and accurately documenting the basis for the savings or discount.

Rule 11. Advertising any reference to "dealer

cost" or "invoice" price. Advertising the word "wholesale" in connection with the retail offering of motor vehicles.

Rule 12. Advertising a specific trade-in amount or range of amounts without, in fact, offering such a trade-in amount and, failing to disclose or advertise the M.S.R.P., sale price, or capitalized cost of the vehicle from which the trade-in will be deducted.

Rule 13. Advertising the price of a vehicle without including all costs to the purchaser at the time of delivery at dealer's premises, except sales tax, finance charges and cost of emissions tests.

Rule 14. Advertising any specific discount or rebate on new motor vehicles without the manufacturer's suggested retail price conspicuously stated in the ad.

Rule 15. Advertising any qualifying statement or disclosure which is not clear, conspicuous, and readable, and which is not adjacent to the offer or terms it qualifies.

REGULATION Z and M

An advertisement promoting a closed-end credit sale on a motor vehicle purchase falls under Regulation Z while Regulation M covers advertising that promotes a consumer lease. For additional information on Regulation Z or Regulation M contact the Federal Reserve Board (FRB). The FRB has publications that can be ordered by calling (202) 452-3244 or by accessing their Internet web page.

For additional information about the Dealer Board Advertising Rules, contact the Auto Industry Division at (303) 205-5604 or visit their webpage at www.mv.state.co.us/dealer.html.

DEALER BOARD MEMBERS

President, Ron Rakowsky

First Vice President, Clair Villano,

Second Vice President, Mike Faricy

John Covert, Dwayne Dodd, Fred Emich,

Lee Payne, Steve Perkins, Jim Varner

Executive Secretary, Kirk J. Martelon

AUTO INDUSTRY DIVISION

Division Director, Kirk J. Martelon

Licensing Manager, Janet Swaney,

Investigator Supervisor, Mary Marvin

Correspondence is welcome. Address to:

Larry Herold, Auto Industry Division

1881 Pierce Street, Lakewood, CO 80214

Phone: (303) 205-5604 FAX: (303) 205-5977

E-mail: dealers@spike.dor.state.co.us

Internet: www.mv.state.co.us/dealer.html

C A L E N D A R

Dealer Board Business Meeting: Second Tuesday of each month at 9:00 am, 1881 Pierce St, Lakewood.

Dealer Board Hearings: Fourth Tuesday of each month, if necessary, at 9:00 am, 1881 Pierce St, Lakewood.

License Law Seminar - Colorado Springs: First Tuesday of each month at 10:00 am, 3650 Austin Bluffs Pkwy, Ste. 188, in the Shops of the Bluffs Mall, Colorado Springs.

License Law Seminar - Lakewood: Third Tuesday of each month at 9:00 am, 1881 Pierce St, Conf. Rm. A, Lakewood.

Note: Times and locations are subject to change.

Call the Auto Industry Division at (303) 205-5604.

Please note: While every effort is made to make the information in Wheels as accurate and helpful as possible, it is not offered as a substitute for legal advice.

UNIFORM CONSUMER CREDIT CODE NOTIFICATION

by Laura Udis, Administrator, Uniform Consumer Credit Code

Dealers who extend credit or who arrange extensions of credit for automobile purchases must file notification with the Uniform Consumer Credit Code (UCCC) each January 31. Yellow notification forms were mailed at the end of December 1999 to all dealers who filed last year. If you have not yet filed your notification form and paid the \$10 fee, contact the UCCC at (303) 866-4494 for a form. You will not receive any license. Your canceled check is your receipt.

If the dealer's name appears as the original creditor on retail installment contracts, the dealer

must pay the fee even if the bank or sales finance company must approve the credit transaction and the contract is immediately sold or assigned to the bank or sales finance company. The fee must also be paid by dealers that retain and collect retail installment contracts. The fee was reduced from the \$20 it had been in prior years.

For more information on Colorado's consumer credit laws, you may wish to visit www.ago.state.co.us and look at the "UCCC" heading. The website contains copies of the law and regulations and informational brochures.

LICENSING FITNESS/UNFITNESS REGULATION MODIFIED

Regulation 12-6-118(6) was modified by the Motor Vehicle Dealer Board after holding a public hearing. The modified regulation is effective January 10, 2000.

Regulation 12-6-118(6)

(a) The Board, in determining whether a licensee has demonstrated unfitness of licensing character or record, will consider whether the applicant or any partner, officer, director, or shareholder of 5% or more, of any corporation, limited liability company, limited liability partnership or any other business entity authorized under law to hold a license, has had a license fined, denied, suspended or revoked, the nature and extent of any complaints, and any civil judgments, injunctions, consent orders/decrees, or stipulations, arising from the operation of a business in this state or any other state, engaged in the sale, lease, or distribution of motor vehicles.

(b) The Board, in determining whether a licensee or applicant has demonstrated unfitness of criminal character or record, will consider the nature and date of the convictions; parole or

probation status; including whether the licensee or applicant has maintained satisfactory compliance; and/or restitution. A pattern of convictions which, individually may not constitute grounds for denial or disciplinary action, may, taken together constitute unfitness.

(c) The Board, in determining whether a licensee or applicant has demonstrated unfitness of financial character or record, will consider net worth, liquid assets including cash, lines of credit, marketable securities, credit reports, unpaid judgments and/or tax liens, delinquent debts, and bankruptcy status. Applications for a motor vehicle dealer or used motor vehicle license will be closely evaluated based on the factors herein and the applicant's concept of operation for the business to assess the potential harm to retail customers.

(l) Failure to timely pay any fine imposed by the Board, or the submission of a draft or check for the payment of any fee required by the Board which is dishonored shall be deemed to demonstrate unfitness of financial character or record.

REVOCATIONS, RIGHT TO CURE, SALES TAX & PLATES

Revocations Listed

The Motor Vehicle Dealer Board/Auto Industry Division webpage has a listing of those dealers that have had their license revoked or suspended for at least one year. The information can be found at www.mv.state.co.us/dealer.html

Right to Cure

Colorado statute says in regard to repossession, that the "right to cure" will be delivered or mailed to the debtor's residence. The Division recommends that you not only deliver or mail the notice, but, that you also send a copy by certified mail.

Sales Tax and Leasing Companies

If a leasing company sells a car to the same lessee who has been leasing the vehicle, the lessor should collect the same taxes as the original lease transaction. This is true even if the lessee is still in the original jurisdiction or is now in a different jurisdiction.

License Plates

License plates are to be retained by the customer on a vehicle that has been traded-in. The dealership should not keep the plates or registration.

DEALER BOARD ACTIONS

COLORADO CUSTOMS RV & MARINE, INC. -
failure to deliver title and failure to honor written
agreement. License Revoked.

EDELTRAUD MAZZO dba JM AUTO SERVICE -
improperly obtaining full-use dealer plates. \$500 Fine
and 6-Month Probation

ELNA BOARDMAN dba D & E AUTO SALES -
improperly obtaining full-use dealer plates. \$1000 Fine
and 6-Month Probation.

Correction: EDWIN KANEMOTO dba MOTOCAR -
December 1999 Wheels Board Actions should have read:
advertising to give false impression that vehicle is being
offered by a private party. \$1000 Fine and 1-Year
Probation.

HUGHES, 20-YEAR PRISON SENTENCE

On November 30, 1999, H. Earl Hughes, former owner of High Country Auto Sales was sentenced to 20 years in prison. This was in accordance with a plea agreement he entered into with the Larimer County District Attorney office. Hughes pled guilty to two felonies; theft and defrauding a secured creditor. This conviction stemmed from a joint investigation between The Auto Industry Division and the Loveland Police Department.

In July of 1997, Investigator Wayne Brautigam received information that High Country Auto may be in trouble and began the investigation. High Country Auto surrendered its license and the

Dealer Board revoked the dealer's license at its July 28, 1997 meeting.

After the license was revoked, Brautigam continued to work with the Larimer County Motor Vehicle office and the Loveland Police Department to determine the extent of damage. The Auto Industry Division investigated over 100 complaints from buyers, sellers, banks, and other floorplanners. The total damage was over \$1 million. Because the violations occurred over a two-year bond period, Investigator Brautigam worked with the bond company and the result was that \$60,000.00 in bond money was made available.

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MOTOR VEHICLE DEALER BOARD
DENVER CO 80261-0016