

ILLINOIS MOTOR VEHICLE ADVERTISING REGULATIONS, SELECT ILLINOIS LAWS, AND FTC GUIDANCE

Ladies and Gentlemen:

The Illinois Attorney General's Office and the Federal Trade Commission regulate motor vehicle advertising in Illinois. When IADA learns about a pattern of common violations of State and Federal Motor Vehicle Advertising Rules we update members in our IADA Bulletins (available at www.illinoisdealers.com). To help dealers comply with the regulations, IADA provides this guide to the advertising rules, along with an updated selection of Illinois laws that impact dealer advertising and compliance guidance from the FTC. Additionally, questions of interpretation may be directed to IADA's Legal Counsel at 217-753-0220.

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ILLINOIS ATTORNEY GENERAL MOTOR VEHICLE ADVERTISING REGULATIONS

ILLINOIS ADMINISTRATIVE CODE TITLE 14. COMMERCE SUBTITLE B. CONSUMER PROTECTION CHAPTER II. ATTORNEY GENERAL PART 475. MOTOR VEHICLE ADVERTISING 14 Ill. Adm. Code 475 (2003)

Title 14, Part 475 -- Authority & General Source

AUTHORITY: Implementing Sections 2 and 3 and authorized by Section 4 of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2, 3 and 4].

GENERAL SOURCE: Adopted at 15 Ill. Reg. 17949, effective December 3, 1991; amended at 25 Ill. Reg. 4819, effective March 20, 2001; amended at 27 Ill. Reg. 7960, effective April 6, 2003; Amended at 27 Ill. Reg. 13992, effective August 11, 2003

§ 475.110 Definitions

"Advertisement" (including the terms "advertise" and "advertising") means any oral, written, graphic, or pictorial statement made concerning motor vehicles by publication, dissemination, solicitation or circulation, in the course of "trade" and "commerce", as those terms are defined in this Section. Advertisement includes any statement or representation made in a newspaper, magazine, or other publication; or on radio or television; or appearing in any notice, handbill, sign, billboard, banner, poster, display, circular, pamphlet, letter, or other printed material; or contained in any window sticker or price tag.

"Buy-down rate" means a financing rate which, as a result of the dealer's advance payment of finance charges to a third party, is below the prevailing market financing rate.

"Clear and conspicuous " (including the terms "clearly" and "conspicuously") means that the statement, representation or term being conveyed is in close proximity to the statement, representation or term it clarifies, modifies, or explains, or to which it otherwise relates; readily noticeable; reasonably understandable by the person(s) to whom it is directed; and not contradictory to any terms it purports to clarify, modify or explain.

A statement, representation or term is not clear and conspicuous unless it shall:

For printed, written, typed or graphic advertisements:

employ abbreviations only if they are commonly understood by the public (e.g., abbreviations commonly understood - AC, AM/FM, AUTO, AIR, 2DR, CYL, MSRP, and e.g., abbreviations not commonly understood - WAC, PEG) or approved by federal or State law (e.g., terms allowed by the Federal Truth in Lending Act, [15 USC 1601](#), et seq., or the Consumer Leasing Act of 1976, [15 USC 1601](#), et seq., such as "APR");

be of sufficient prominence in terms of print, size and color contrast, as compared with the remainder of the advertisement, so as to be readily noticeable to the person(s) to whom it is directed. Any type size which is 10-point type or larger is deemed readily noticeable.

For radio advertisements and the audio portion of television advertisements or advertisements in any other audio-visual medium:

be at a decibel level equal to the highest decibel level used in the advertisement; and

be at a speed equal to or slower than any other statement, representation or term contained in the advertisement.

For required superimposed written copy ("super") in a television advertisement or advertisements in any other audio-visual medium:

the minimum height of supers should be:

capital and lower case letters: 24 video scanlines;

capital letters only: 18 video scanlines;

appear on the screen for a duration sufficient to allow a viewer to have a reasonable opportunity to read and understand the statement, representation or term.

It shall be a rebuttable presumption that the super is sufficient if the super meets the following on-screen minimum display time:

three seconds for the first line of text; and

one second for each additional line.

"Dealer" means a dealer as defined in the Illinois Vehicle Code and includes used car dealers, also as defined in the Vehicle Code [625 ILCS 5].

"Dealer's cost " (including but not limited to: "cost", "factory invoice", "factory billing") means the actual cost or total consideration paid by the dealer to the manufacturer for the vehicle, and where no other consideration, fee or charge, including, without limitation, overhead, rebates, promotional fees, advertising, or any other consideration, has been or will be paid by the manufacturer or a third party to the dealer prior or subsequent to the purchase of the vehicle, which in any way reduces, diminishes or offsets the cost to the dealer of purchasing the vehicle.

"Demonstrator" means a motor vehicle of a current or previous model year that has not been registered or titled to a member of the public prior to the appearance of the advertisement, and had been used by the dealership personnel for demonstration purposes.

"Documentary service fee" or words of similar import, including, without limitation, "documentation and handling" fee or "D and H" fee, means a fee for services actually rendered to, for, or on behalf of the retail buyer in preparing, handling, and processing documents pertaining to the motor vehicle and the closing of the transaction, and shall not exceed the amount of \$ 40; provided, however, this fee may be adjusted on January 1 of each calendar year for inflation,

employing the Consumer Price Index published by the United States Department of Labor as the basis for adjustment.

"Executive vehicle" or "official vehicle" means a motor vehicle that has been driven exclusively by executives of the parent motor vehicle manufacturer's personnel or by an executive of an authorized dealer in the same make of car, as defined in the Illinois Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505].

"Free" means without charge or cost, monetary or otherwise, to the recipient, and includes terms of essentially identical import, such as "give away". A free offer in conjunction with the sale or lease of goods or services is one that conveys to customers the message that the goods or services are offered at no cost in conjunction with the purchase of other goods or services for no more than their regular price.

"Leased vehicle" means a vehicle that has been driven for a specific period of time pursuant to a lease, as that term is defined in the Illinois Vehicle Code.

"Limited rebate" means any payment of money to a consumer, or any payment to a dealer or third party on behalf of a consumer, on the condition that the consumer purchase or lease a motor vehicle, and that is confined, restricted, or circumscribed to a certain class of consumers, such that it is not generally available to every consumer seeking to purchase or lease the motor vehicle, including, but not limited to, on the basis of the consumer's status, sponsorship, affiliation, or association.

"Motor vehicle" means a motor vehicle as defined in the Illinois Vehicle Code.

"New motor vehicle" means a motor vehicle that is of the current or previous model year and that has not been previously registered or titled except to a franchised distributor or franchised new vehicle dealer.

"Rebate" means the payment of money to a consumer or payment to a dealer or third party on behalf of a consumer on the condition that the consumer purchase or lease a motor vehicle, unless the rebate is offered through a manufacturer's rebate program or a third party independent of the dealer.

"Rental vehicle" means a vehicle that has been offered to the public for business or personal use driving for short periods of time, such as on a daily or weekly basis.

"Shopped area" means the geographic area where the motor vehicle advertisements are disseminated and where the shopped dealerships are located.

"Trade" and "commerce" mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State, as defined in the Consumer Fraud and Deceptive Business Practices Act.

"Trade area" means the geographic area where the motor vehicle dealership is located and where the dealer's advertisements are disseminated.

SOURCE: Amended at 27 Ill. Reg. 7960, effective April 16, 2003.

§ 475.210 Clear and Conspicuous--Disclosure of Material Terms.

It is an unfair or deceptive act to advertise, offer for sale or sell any motor vehicle without disclosing all material terms and conditions relating to the offer clearly and conspicuously at the outset of the offer so as to leave no reasonable probability that the offering might be misunderstood. Material terms include, without limitation, those mandated by federal law including, but not limited to, those Acts listed in Section 475.250, or state law, or without which the advertisement would be false or misleading.

§ 475.220 Footnotes and Asterisks.

It is an unfair or deceptive act to use, in any advertising, one or more footnotes or asterisks which, alone or in combination, confuse, contradict, materially modify or unreasonably limit the material terms of an advertisement.

§ 475.230 Print Size.

It is an unfair or deceptive act to, in any advertising, use any print in type size so small as to be not readily noticeable. In print advertisements, any type size which is 10-point type or larger is deemed readily noticeable.

§ 475.240 Photographs and Illustrations.

It is an unfair or deceptive act to use, in any advertising, inaccurate photographs or illustrations when describing specific automobiles; for example, advertising a fully-loaded car when the advertisement actually refers to a minimally-equipped automobile in text.

§ 475.250 Abbreviations.

It is an unfair or deceptive act to use in any advertising an abbreviation which is confusing, misleading or not commonly understood by the general public (e.g., abbreviations commonly understood--AC, AM/FM, AUTO, AIR, 2DR, CYL, MSRP, DOC, and e.g., abbreviations not commonly understood--WAC, PEG) or approved by federal law or state law (e.g., terms allowed by the Federal Truth in Lending Act, 15 U.S.C. 1601 et seq., and the Consumer Leasing Act of 1976, 15 U.S.C. 1601, et seq., such as "APR").

§ 475.310 Advertised Price

It is an unfair or deceptive act to advertise the total price of a motor vehicle without including in the advertised price all costs to the purchaser at the time of sale, or which are necessary or usual

prior to delivery of such vehicle to the purchaser, including any costs of delivery, dealer preparation and any other charges of any nature; provided, however, taxes, license and title fees and a documentary service fee, as defined herein, may be excluded from the advertised price if clearly disclosed in the advertisement that these costs are excluded from the advertised price. Purchasers shall be able to purchase all vehicles described by the advertisement at the advertised price.

SOURCE: Amended at 25 Ill. Reg. 4819, effective March 20, 2001.

§ 475.320 Advertising Limitations.

It is an unfair or deceptive act to fail to clearly and conspicuously disclose in an advertisement any limitations, including, but not limited to the availability of a single vehicle or a number of vehicles in stock, or period of time during which the offer is in effect, or other applicable restrictions, to which the advertised price may be subject.

§ 475.330 Low Prices (Repealed)

SOURCE: Repealed at 27 Ill. Reg. 7960, effective April 16, 2003.

§ 475.340 Lowest Prices--Guaranteed Lowest Prices.

It is an unfair or deceptive act to advertise the terms "lowest prices," "guaranteed lowest prices," "prices lower than anyone else", or words of similar import, in the advertisement, unless the dealer systematically monitors and continues to monitor competitive prices in the trade area and can substantiate such claim.

§ 475.350 Price Matching.

It is an unfair or deceptive act to use terms "meet your best offer" or "we won't be undersold", or terms of similar import which suggest that a dealer will beat or match a competitor's price unless:

- a) the advertisement clearly and conspicuously discloses price matching policy and any limitations; and
- b) such policy does not require the presentation of any evidence which places an unreasonable burden on the consumer.

§ 475.360 Disclosure of Basis for Price Comparison

- a) It is an unfair or deceptive act to advertise any advertising term(s) which compare the dealer's current selling price with a higher price, explicitly or implicitly, unless the basis for the price comparison is clearly and conspicuously disclosed; provided, however, in a new vehicle context,

a dealer may compare the higher and lower price without disclosing the basis for the price comparison, if the higher price is the dealer's own former (regular) price, and only if:

1) the former (regular) price is equal to or below the price(s) at which the dealer made a substantial number of sales of such vehicles in the recent regular course of its business; or

2) the former (regular) price is equal to or below the price(s) at which the dealer offered the vehicle(s) for a reasonably substantial period of time in the recent regular course of its business, openly and actively and in good faith, with an intent to sell the vehicle(s) at that price(s).

b) It is an unfair or deceptive act to use any advertising term(s) which compare the dealer's current selling price with a price currently being offered by another dealer for an identical vehicle, explicitly or implicitly, unless the stated higher comparative price is at or below the price at which the identical vehicle is currently being offered in the dealer's trade area by:

1) a reasonable number of other dealers in the same trade area; or

2) another dealer(s) is specifically identified in the advertisement.

c) In a new vehicle context, it is an unfair or deceptive act to use any advertising term(s) which compares the dealer's current selling price with a "list price", or other similar terms, to claim a savings, unless such list price is the manufacturer's suggested retail price ("MSRP"), and is the price at which the vehicle is offered by a reasonable number of dealers in the dealer's trade area, or is the dealer's own former (regular) price as defined in subsection (a)(1) or (2) above. However, an advertisement may reference a MSRP in relation to the dealer's (regular) price if no savings are claimed, and the MSRP figure is disclosed and identified as such in the advertisement, and the advertisement discloses that the MSRP may not be the price at which the vehicle is sold in the trade area.

d) In a used vehicle context, it is an unfair or deceptive act to use terms such as "was \$, now \$ ", which compare the dealer's current selling price with a higher price; provided, however, a dealer may compare an advertised price with a retail value listed in a current, nationally recognized, and published price guide book. Said book price must be from the current regional issue from the trade area where the advertisement appears, and the advertisement must clearly and conspicuously disclose which book is quoted in close proximity to the advertised price. In addition, the advertisement must clearly and conspicuously include the following disclaimer in at least ten-point bold-faced type: "The value of used vehicles varies with mileage, usage and condition. Book values should be considered estimates only." Under no circumstances may the Manufacturers Suggested Retail Price (MSRP) be used as a basis for price comparisons for used vehicles.

SOURCE: Amended at 25 Ill. Reg. 4819, effective March 20, 2001.

§ 475.370 Sales

It is an unfair or deceptive act to advertise the words "sale", "discount", "savings", "price cut", "reduced", "clearance", "tent sale", and other similar terms, which state or imply a price savings, unless the current selling price of the vehicle is reduced by a reasonable amount from the vehicle's former (regular) price as defined in Section 475.360(a)(1) or (2). If the dealer reduces the price by 5% or more, a rebuttable presumption shall exist that the price reduction was of a reasonable amount. On vehicles where the mark-up from dealer invoice is less than 5%, the dealer may use sale terms if the vehicle has been reduced by a reasonable amount. It is an unfair or deceptive act to advertise the term "clearance" without clearly and conspicuously disclosing, if

such is the fact, that such "clearance" is limited to certain vehicles. It is an unfair or deceptive act to advertise the words "sale", "discount", "savings", "price cut", "reduced", "clearance", "tent sale", and other similar terms that state or imply a price savings, without disclosing the duration of the words that state or imply a price savings by stating the number of days or termination date. However, in a new vehicle context, if the model cannot be reordered from the manufacturer, then the word "clearance" can be used without stating the number of days or a termination date.

SOURCE: Amended at 25 Ill. Reg. 4819, effective March 20, 2001.

§ 475.380 Liquidation Sale.

It is an unfair or deceptive act to use any advertising terms such as "Liquidation Sale", "Public Notice", "Closing Out Sale", "Lost Our Lease Sale", "Forced to Vacate Sale" or similar terms used to connote or imply a court-ordered or other forced liquidation of assets, or to induce a belief that upon disposal of the stock of goods on hand, the business will cease and be discontinued at the premises where the sale is conducted, unless such is the case.

§ 475.390 Range of Savings or Price Comparison Claims.

It is an unfair or deceptive act to advertise that any vehicles are being offered for sale at a range of prices or at a range of percentage or fractional discounts, through the use of the terms "As Low As" or "From," or terms of similar import, unless:

- a) the highest price or lowest discount in the range is clearly and conspicuously disclosed in the advertisement; and
- b) a reasonable number of these vehicles in the advertisement are offered with at least the largest advertised discount; and
- c) the vehicles are readily available for sale in sufficient quantity likely to meet reasonable expectable public demand. If at least 5% of the vehicles in the advertisement are offered with at least the largest advertised discount, it shall create a rebuttable presumption that a reasonable number were offered with at least the largest advertised discount.

§ 475.410 Dealer Cost/Invoice Pricing.

It is an unfair or deceptive act to advertise the terms "dealer's cost," "cost," "dealer's invoice," "invoice price," "factory invoice," "factory billing," or terms of like import or other representation that a vehicle will be sold at, above, or below a cost or price standard, unless:

- a) The advertising exclusively uses the term "invoice" or "invoice price";
- b) The advertising complies with the following:
 - 1) clearly and conspicuously discloses that the dealer's profit is not limited to the amount of dollars charged over invoice; or
 - 2) the price standard represents the total consideration paid by the dealer to the manufacturer for the vehicle, and no other consideration, fee or charge, including without limitation, overhead, rebates, promotional fees, advertising or other consideration has been or will be paid by the

manufacturer or a third party to the dealer prior or subsequent to the purchase of the vehicle, which in any way reduces, diminishes or offsets the cost to the dealer of purchasing the vehicle;

c) Subject to Section 475.320, purchasers shall be able to purchase all vehicles described by the advertisement at the advertised price. If some vehicles in stock may not be purchased at advertised prices because of nonfactory options installation, the advertisement shall clearly and conspicuously disclose that the advertised price applies only to a specified number of vehicles or to one or more vehicles by stock number; and

d) The invoice shall be readily available for inspection by prospective customers.

§ 475.420 Buy-Down Rate

a) It is an unfair or deceptive act to advertise the sale of any motor vehicle at a "buy-down" rate, as that term is defined in Section 475.110, without clearly and conspicuously disclosing in the advertisement that the interest rate is not exclusively sponsored or subsidized by the manufacturer, if such is, in fact, true.

"Manufacturer" includes any subsidiaries of the manufacturer that advertise or offer motor vehicle financing.

b) It is an unfair or deceptive act to advertise or offer below market finance rates, unless the advertised "buy-down" rate complies with the Federal Truth In Lending Act.

SOURCE: Amended at 27 Ill. Reg. 7960, effective April 16, 2003.

§ 475.510 Demonstrator, Executive, Official, or Promotional Vehicles

a) It is an unfair or deceptive act to advertise any "demonstrator" vehicle without clearly and conspicuously disclosing:

- 1) the year, make, and model; and
- 2) that the vehicle is a "demonstrator" or has been previously driven.

b) It is an unfair or deceptive act to advertise any "executive" or "official" vehicle unless that vehicle when so advertised has been used exclusively by executives of the parent motor car manufacturer's personnel or by an executive of an authorized dealer in the same make of car, or has been designated by the manufacturer as a promotional vehicle. The vehicle so advertised shall not have been previously titled or sold to a member of the public prior to the appearance of the advertisement. Such executive vehicles shall be described as "executive driven" and such promotional vehicles shall be described as "official driven".

c) Any reference to the term "new" in connection with a "demonstrator" cannot be more prominent than and must appear in close proximity to the term "demonstrator" or previously driven.

d) Any reference to the term "new" in connection with an "executive" or "official" vehicle cannot be more prominent than and must appear in close proximity to the term "pre-driven" or "previously driven."

SOURCE: Amended at 25 Ill. Reg. 4819, effective March 20, 2001.

§ 475.520 *Rental Vehicles*

It is an unfair or deceptive act to advertise any vehicle which has been leased or rented on an individual or fleet basis without clearly and conspicuously disclosing:

- a) the year, make and model; and
- b) the fact that such vehicle has been previously titled, using the word "used".

SOURCE: Amended at 25 Ill. Reg. 4819, effective March 20, 2001.

§ 475.530 *Rebates*

a) It is an unfair or deceptive act to advertise any cash rebates, including, without limitation, a payment or an offset to a consumer or payment to a dealer or third party on behalf of the consumer on the condition that the consumer purchase or lease a motor vehicle, unless the rebate is funded solely by a manufacturer pursuant to a manufacturer's rebate program.

b) It is an unfair or deceptive act to advertise a price or amount of an installment payment, wherein rebates have been deducted, unless every consumer seeking to purchase or lease the advertised vehicle is eligible for the rebate.

c) The availability of a limited rebate may be advertised if the terms of the limitation are clearly and conspicuously disclosed. It is an unfair or deceptive act to advertise a price or amount of an installment payment in which limited rebates have been deducted, or to advertise a total amount of rebate if a portion of the total consists of a limited rebate.

SOURCE: Amended at 27 Ill. Reg. 13992, effective August 11, 2003

§ 475.540 *Trade-Ins*

a) It is an unfair or deceptive act to advertise or offer a specific trade-in allowance (i.e., "\$ 2500 minimum trade-in"), or a range of amounts for trade-ins (e.g., "up to \$ 1,000" or "as much as \$ 1,000"), including, without limitation, that the trade-in will be valued at a specific amount or guaranteed minimum amount.

SOURCE: Amended at 25 Ill. Reg. 4819, effective March 20, 2001.

§ 475.550 *No Money Down.*

It is an unfair or deceptive act to advertise using the phrase "no money down" or words of similar meaning, where a down payment is, in fact, required and the consumer is required to finance the down payment by a loan or make the down payment in cash.

§ 475.560 Shopped Price

It is an unfair or deceptive act to advertise any sale or lease price modified by phrases such as "based on shopped price", "based on a recent survey of prices", or similar terms, unless:

- a) the model of vehicle selected is a model sold and available at most dealer stores of the same line make in the shopped area in which the advertisement appears;
- b) the survey conducted is independent, and the survey agency used to conduct the survey was not related to or affiliated with any manufacturer or dealer carrying that vehicle in inventory;
- c) the survey takes place immediately prior to the first advertisement being placed;
- d) at least one half of the dealers of the applicable line make in the shopped area were surveyed;
- e) the survey result has not been used over an extended period if costs or other factors change such that the average survey price has become significantly less than the prevailing price in the shopped area, and in no event shall be used for a period exceeding 90 days;
- f) if the product is pictured in the survey ad, the picture is of the exact type and model surveyed; also the picture includes only features included in the survey price;
- g) the dates of the survey period and the numbers of dealers shopped are disclosed in the ad, with a statement that individual dealer prices may be higher or lower; and
- h) all dealerships shopped for the survey are located within the shopped area.

SOURCE: Added at 27 Ill. Reg. 7960, effective April 16, 2003.

§ 475.570 Factory Outlet.

It is an unfair or deceptive act to advertise using the terms "Factory Outlet", "Authorized Distribution Center", "Factory Authorized Sale", or similar special affiliation, connection or relationship with the manufacturer that is greater or more direct than that of any other dealer.

§ 475.580 Contract Add-Ons.

It is an unfair or deceptive practice for a dealer to negotiate the terms of a sale and thereafter add the cost of items including, without limitation, extended warranties, credit life, dealer preparation, or undercoating, to the contract without previously disclosing same to the consumer and without the consumer's consent.

§ 475.590 Gifts and Free Offers

a) It is an unfair or deceptive act to advertise or offer free prizes, gifts or other incentives in connection with the purchase or lease of a vehicle where the vehicle is sold or leased at a price arrived at through bargaining or negotiation, unless the dealer meets the requirements of subsection (b) of this Section.

b) A free prize, gift or other incentive may be advertised or offered in connection with the purchase or lease of a vehicle if:

1) the free prize, gift or other incentive is offered through a manufacturer's program or a manufacturer's authorized and approved dealer advertising association without any participation by the dealer, excluding dues or assessments that are required to participate in the advertising association. The program or association shall be clearly and conspicuously disclosed; and

2) all material terms and conditions relating to the offer are clearly and conspicuously disclosed at the outset of the offer.

c) Nothing in this Section shall prohibit a dealer from including a warranty with the purchase or lease of a vehicle. A warranty shall not be advertised as free using the word "free".

SOURCE: Amended at 27 Ill. Reg. 7960, effective April 16, 2003.

§ 475.610 Credit Sales Advertising Disclosures

It is an unfair or deceptive act to advertise "closed-end credit" terms in the advertisement, offer of sale, or sale of any motor vehicle if the advertisement contains any one of following five "triggering terms": amount or percentage of down payment; number of payments; period of repayment; amount of any payment (expressed as percentage or dollar amount); or amount of any finance charge, without clearly and conspicuously disclosing:

a) amount or percentage of any down payment, terms of repayment, and "annual percentage rate" using that term spelled out in full or the abbreviation "APR". If the annual percentage rate may be increased after the contract is signed, that fact must be disclosed. An advertisement that complies with the Federal Truth in Lending Act (15 USC 1601 et seq.) and amendments thereto, and any regulations issued or that may be issued under that federal statute, shall be deemed in compliance with the provisions of this subsection.

b) the contractual amount owing at the conclusion of a pre-determined schedule of installment payments, in close proximity to and, where applicable, in the same decibel tone as, the "triggering term" when a dealer advertises the availability of balloon-note financing. For the purpose of this subsection (b), balloon-note financing shall mean the manner of purchase whereby a consumer agrees to select and perform, at the conclusion of a pre-determined schedule of installment payments made in periodic or monthly amounts, one of the following options:

1) satisfy the balance of the contractual amount owing;

2) refinance any balance owing, on the terms previously agreed upon at the time of executing the retail installment contract; or

3) surrender the vehicle at such time and manner agreed upon at the time of executing the retail installment contract.

c) a manufacturer's or manufacturer captive finance company's tiered financing offer. For the purpose of this subsection (c), tiered financing shall mean the manner of financing a purchase whereby a consumer must qualify for a specific manufacturer's or manufacturer captive finance company's offer according to pre-established credit qualifications. Proper disclosures might include:

Ad copy: 1.9% APR for 48 months

Disclosure: Financing subject to credit approval and insurability. 1.9% financing for 48 months on (vehicle make/model) in lieu of rebate to qualified buyers and ends (date). 48 months at (\$ amount) per month per \$ 1000 financed at 1.9% APR (level a, b, c) with 10% down on (vehicle make/model). Finance rate varies depending on credit worthiness of customer as determined by (captive finance company). Some customers will not qualify.

SOURCE: Amended at 25 Ill. Reg. 4819, effective March 20, 2001.

§ 475.620 *Advertised Terms Unavailable.*

It is an unfair or deceptive act to advertise credit terms that are not actually available.

§ 475.630 *Advertised Finance Rate.*

It is an unfair or deceptive act to advertise a finance rate (APR) without disclosing, if such is the fact, the following:

- a) that such rate is limited to certain models;
- b) that the price may be increased by a dealer's contribution to lower the rate;
- c) that to take advantage of such a reduced rate, a customer must purchase additional options or services;
- d) that taking advantage of the rate will increase the final price of the vehicle or options or services purchased;
- e) that the offer expires after a limited time period; and
- f) any other conditions, qualifications or limitations which materially affect the availability of such rate.

§ 475.640 *Advertisement of Credit Terms.*

It is an unfair or deceptive act to advertise credit using the terms "bank rates", "bank financing" or words of like import unless it is a bank, banking association or trust company authorized to do business under the laws of Illinois or of the United States.

§ 475.710 *Lease Advertising Disclosures*

- a) It is an unfair or deceptive act to advertise the offer of a "consumer lease" if the advertisement contains any one of the following two "triggering terms": amount of any payment or a statement of any capitalized cost reduction or other payment required prior to or at consummation or by delivery, if delivery occurs after consummation, without clearly and conspicuously disclosing:

1) that the transaction is a lease in close proximity to and, where applicable, in the same decibel tone as, the amount of the periodic payment;

2) The total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;

3) The number, amounts, and due dates or periods of scheduled payments under the lease;

4) A statement of whether a security deposit is required; and

5) A statement that an extra charge may be imposed at the end of the lease term where the lessee's liability (if any) is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

b) Except for the statement of a periodic payment, any affirmative or negative reference to a charge that is part of the total amount due at lease signing shall not be more prominent than that disclosure.

c) An advertisement which complies with the Consumer Leasing Act of 1976 (15 USC 1601 et seq.), and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this Section.

SOURCE: Amended at 25 Ill. Reg. 4819, effective March 20, 2001.

§ 475.720 Other Limitations, Restrictions or Conditions (Repealed)

SOURCE: Repealed at 25 Ill. Reg. 4819, effective March 20, 2001.

§ 475.810 Exemption.

Motor vehicle advertising shall not be subject to the provisions of the Illinois Retail Advertising Regulations, 14 Ill. Admin. Code Part 470.

MISCELLANEOUS ILLINOIS LAWS AFFECTING MOTOR VEHICLE ADVERTISING

The following are some of the Illinois Laws that affect motor vehicle advertising:

Unfair competition and deceptive practices (815 ILCS 505/2)

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in Section 2 of the "Uniform Deceptive Trade Practices Act", approved August 5, 1965 [815 ILCS 510/2], in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. In construing this section consideration shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5 (a) of the Federal Trade Commission Act [15 U.S.C. § 45].

Credit application; refusal; return of down payment (815 ILCS 505/2C)

If the furnishing of merchandise, whether under purchase order or a contract of sale, is conditioned on the consumer's providing credit references or having a credit rating acceptable to the seller and the seller rejects the credit application of that consumer, the seller must return to the consumer any down payment, whether such down payment is in the form of money, goods, chattels or otherwise, made under that purchase order or contract and may not retain any part thereof. The retention by the seller of part or all of the down payment, whether such down payment is in the form of money, goods, chattels or otherwise, under those circumstances as a fee for investigating the credit of the consumer or as liquidated damages to cover depreciation of the merchandise which was the subject of the purchase order or contract or for any other purpose is an unlawful practice within the meaning of this Act, whether that fee or those charges are claimed from the down payment, whether such down payment is in the form of money, goods, chattels or otherwise, or made as a separate charge to the consumer.

Use of coupons in consumer sales (815 ILCS 505/2J.1)

Any retail seller, or motor vehicle dealer within the meaning of Chapter 5 of the Illinois Vehicle Code, who publishes or issues coupons for use by consumers in the purchase of specific items of merchandise in the retail outlet of the seller, or established place of business, and represents that presentation of a coupon permits the purchase of a specific item of merchandise for less than the regular price shall clearly state (a) the discount or (b) the fact that the coupon featured price is a "sale" price to which the presenter is entitled. No coupon shall be offered in connection with any retail sale of a motor vehicle.

Use of terms "bank rates" and "bank financing" in advertisement (815 ILCS 505/2K)

No person engaged in the making of loans to consumers or furnishing goods or services to consumers in a credit transaction may advertise using the terms "bank rates", "bank financing" or words of like import unless it is a bank, banking association or trust company authorized to do business under the laws of this State or of the United States. A person who violates this Section commits an unlawful practice within the meaning of this Act.

Advertisement of Factory Authorized Services (815 ILCS 505/2M)

No person engaged in the business of performing services on merchandise shall advertise such services as factory authorized services unless such services are performed by factory authorized personnel. Any person so advertising shall, upon request, supply proof of such authorization

through manufacturer certification. Any person who violates this Section commits an unlawful practice within the meaning of this Act, and in addition to relief available under Section 7 of this Act, may be prosecuted for the commission of a Class C misdemeanor.

Non-English language transaction (815 ILCS 505/2N)

(a) If (i) a person conducts, in a language other than English, a retail transaction or negotiations related to a retail transaction resulting in a written contract and (ii) the consumer used an interpreter other than the retailer or an employee of the retailer in conducting the transaction or negotiations, the retailer must have the consumer and the interpreter sign the following forms:

I, (name of consumer), used (name of interpreter) to act as my interpreter during this retail transaction or these negotiations. The obligations of the contract or other written agreement were explained to me in my native language by the interpreter. I understand the contract or other written agreement.

(signature of consumer)

(relationship of interpreter to consumer)

I, (name of interpreter), acted as interpreter during this retail transaction or these negotiations. The obligations of the contract or other written agreement were explained to (name of consumer) in the consumer's native language. I understand the contract or other written agreement.

(signature of interpreter)

(relationship of interpreter to consumer)

(b) If (i) a person conducts, in a language other than English, a retail transaction or negotiations related to a retail transaction resulting in a written contract and (ii) the retailer or an employee of the retailer acted as the consumer's interpreter in conducting the transaction or negotiations, the retailer must have the consumer sign the following form in the consumer's native language (except as provided in subsection (c)):

This retail transaction of these negotiations were conducted in (language), which is my native language. I voluntarily choose to have the retailer act as my interpreter during the negotiations. The obligations of the contract or other written agreement were explained to me in my native language. I understand the contract or other written agreement.

(signature of consumer)

(signature of retailer)

(c) If a language that cannot be written is used in the retail transaction or in negotiations related to a retail transaction, then the form set forth in subsection (b) shall be in the English language.

(d) If a person used forms substantially similar to the forms prescribed in subsections (a) and (b) in the regular course of business before January 1, 2002, the person may continue to use those forms instead of the forms prescribed in subsections (a) and (b).

(e) The terms of this Section do not apply to transactions made pursuant to a credit card issued to the buyer, whether such card is issued by the seller or by a third party.

Simulation of checks (815 ILCS 505/2X)

It is an unlawful practice for any person to promote or advertise any business, product or interest in property by means of distributing documents designed to simulate checks or other negotiable instruments unless such instrument has printed upon both its front and back, the following statement: "This is not a Check". However, it is not an unlawful practice under this Section for a person to distribute for commercial purposes a sample or specimen of a check or other instrument which is used to solicit orders for the sale of that instrument and which is clearly marked as a non-negotiable sample or specimen.

Payment of tax by retailer (35 ILCS 105/7)

It is unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by Section 3 [35 ILCS 105/3] hereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded other than when the retailer refunds the selling price and tax because of the merchandise's being returned to the retailer or other than when the retailer credits or refunds the tax to the purchaser to support a claim filed with the Department under the Retailers' Occupation Tax Act [35 ILCS 120/1 et seq.] or under this Act. Any person violating any of the provisions of this Section within this State shall be guilty of a Class A misdemeanor.

Mail Order or catalog businesses -- Disclosure of legal name of business and address] 815 ILCS 505/2B.1

It shall be unlawful in the sale of consumer goods or services for any person conducting a mail order or catalog business in this State, and utilizing a post office box address or a street address representing a site used primarily for the receipt or delivery of mail or as a telephone answering service, to fail to disclose the legal name under which business is conducted and the complete street address from which business is actually conducted in all advertising and promotional materials, including order blanks and forms.

Advertisement of price and periodic payments -- Violations (815 ILCS 505/2J)

No seller may include or cause to be included in any advertisement, price tag, display or other device used to describe the goods to be sold or to induce the purchase of those goods a statement that the goods may be purchased by weekly, monthly or other periodic payments unless that statement clearly sets forth the cash sale price of the goods in immediate conjunction with the amount of such periodic payment payable; the downpayment, if any; the number, amount and due dates or period of payments scheduled to repay the indebtedness if the credit is extended; and the rate of charge for credit expressed as an annual percentage rate.

A seller who complies with the federal Truth In Lending Act, amendments thereto and any regulation issued or which may be issued thereunder, shall be deemed to be in compliance with the provisions of this Section. A seller who violates this Section is guilty of an unlawful practice within the meaning of this Act

TRUTH-IN-LENDING ACT ADVERTISING DISCLOSURES

The Truth in Lending Act regulates how dealers can advertise financing for vehicles mainly by focusing on "triggering terms" and "finance rates." If a triggering term is present then certain disclosures must be made. The information contained in the following two sections is taken from two FTC web publications: How to Advertise Consumer Credit & Lease Terms and Advertising Consumer Leases (the FTC also provides a variety of other useful advertising guides).

Closed-End Credit Disclosures

The main requirements governing advertising of closed-end credit concern "triggering terms" and "finance rates." These requirements may apply to a single ad. This section of

the manual explains these basic requirements and offers additional guidance for special compliance issues.

Triggering Terms

If you advertise closed-end credit with a "triggering term," you also must disclose other major terms, including the annual percentage rate. This rule is intended to ensure that all important terms of a credit plan, not just the most attractive ones, appear in an ad.

The triggering terms for closed-end credit are:

(1) The amount of the downpayment (expressed as either a percentage or dollar amount), in a "credit sale" transaction.

Examples:

"10% down"
"\$1000 down"
"90% financing"
"trade-in with \$1000 appraised value required"

(2) The amount of any payment (expressed as either a percentage or dollar amount).

Examples:

"Monthly payments less than \$250 on all our loan plans"
"Pay \$23.44 per \$1000 amount borrowed"
"\$210.95 per month"

(3) The number of payments or the period of repayment.

Examples:

"Up to four years to pay"
"48 months to pay"
"30-year mortgages available"

(4) The amount of any finance charge.

Examples:

"Financing costs less than \$300 per year"
"Less than \$1200 interest"
"\$2.00 monthly carrying charge"

Some statements about credit terms are too general to trigger additional disclosures. Examples of terms that do not trigger the required disclosures are:

"No downpayment"
"Easy monthly payments"
"Loans available at 5% below our standard APR"
"Low downpayment accepted"
"Pay weekly"
"Terms to fit your budget"
"Financing available."

General statements, such as "take years to pay" or "no closing costs," do not trigger further disclosures because they do not state or suggest the period of repayment or downpayment cost. In contrast, the statement "drive it home for \$199," which implies that the required cash downpayment is no more than \$199, does trigger full disclosure. Similarly, a statement such as "up to 48 months to pay" lists the period of repayment and triggers disclosure. In general, the more specific the statement, the more likely it is to trigger additional disclosures.

Required Disclosures

If your ad for closed-end credit uses a triggering term, it also must include the following information:

1. The amount or percentage of the down-payment;
2. The terms of repayment; and
3. The "annual percentage rate," using that term or the abbreviation "APR." If the annual percentage rate may be increased after consummation of the credit transaction, that fact also must be stated.

The amount or percentage of the "downpayment" need not be shown directly, as long as it can be determined from the ad. For example, "10% cash required from buyer" or "credit terms require minimum \$1000 trade-in" would satisfy the disclosure requirement.

The "terms of repayment" may be expressed in a variety of ways, as long as they convey the required information. For example, an automobile finance company might use unit cost to disclose repayment terms: "48 monthly payments of \$23.44 for each \$1000 borrowed." Similarly, the length of the loan can be expressed as the number of payments or the time period of the loan.

Sample Disclosure

The following disclosure of car financing offered by the dealer would comply with the law *if printed clearly and conspicuously*:

Special close-out sale this weekend. Any in-stock Chevy Citation, only 5% down, 5.9% APR (on approved credit).

Example: 48 monthly payments of \$224.95.

Advertising Finance Rates

Basic Rule

The second basic requirement for advertising closed-end credit is this: if your ad shows the finance charge as a rate, that rate must be stated as an "annual percentage rate," using that term or the abbreviation "APR." Your ad must state the annual percentage rate, even if it is the same as the simple interest rate. So, if you are a car dealer who wants to advertise low-rate financing made available by the manufacturer, your advertisement would read, for example, "5.9% annual percentage rate" or "5.9% APR." If you want to show only a rate, and the APR is stated in the ad, no other credit information need be included: the "triggering term" requirement does not apply because the rate and APR are not triggering terms. Thus, an advertisement could simply state, "Assume 10% annual percentage rate" or "10% annual percentage rate mortgages available."

You must state the annual percentage rate accurately. For example, some transactions, especially real estate loans, include other components in the finance charge besides interest, such as "points" and mortgage insurance premiums paid by the buyer. As a result, the annual percentage rate may be higher than the simple interest rate, because the APR reflects the total cost of credit, including interest and other credit charges.

As long as you include the annual percentage rate in the ad, you also may state a simple annual rate or a periodic rate or both, applicable to an unpaid balance. However, the simple annual or periodic rate may not be more conspicuous in the advertisement than the annual percentage rate. For example, an advertisement for mortgage credit may include the contract rate of interest together with the annual percentage rate, as long as the contract rate is not more prominent than the APR.

No credit ad may state an "add-on" rate (for example, "6% add-on"). This rate is misleading because it is significantly lower than the annual percentage rate, and its use in an ad violates the law

Lease Advertising

If you advertise consumer leases, the Federal Trade Commission has important information for you: Your ads must comply with the streamlined rules for lease advertising found in the Consumer Leasing Act (CLA) and Regulation M. These requirements focus on essential lease information for consumers and are designed to help consumers shop and compare lease terms. The current rules became effective January 1, 1998.

General Requirements

Q. What's a consumer lease?

A. A lease of personal property to an individual for more than four months for personal, family or household use where the total contractual obligation is not more than \$25,000.

Q. Who's covered?

A. Lessors, automobile dealers, merchants - in short, anyone who advertises consumer leases - must comply with the advertising disclosure requirements spelled out in the CLA and Regulation M.

Q. What's a lease ad?

A. Any message that invites, offers or announces to the public the availability of a consumer lease, whether in visual, oral or print (including electronic) media. That includes:

Messages in newspapers, magazines, leaflets, catalogs, and fliers;
Messages on radio, television and public address systems;
Direct mail;
Telephone solicitations;
Signs or displays; and
Online information, such as the Internet.

Q. What's clear and conspicuous disclosure?

A. The required disclosures in your ad must be reasonably understandable. That is, consumers must be able to see and read or hear, and understand, the information. Many factors, including the size, duration, and location of the required disclosures, and the background or other information in the ad, can affect whether the information is clear and conspicuous. This requirement applies to all mandatory disclosures, including those offered through a toll-free (or collect or local) telephone number.

Q. What terms can the ad offer?

A. The terms offered must be usually and customarily available.

Required Disclosures

Q. What terms trigger disclosures in the revised regulation?

A. If your ad includes any of these triggering terms:

A statement of any capitalized cost reduction or other payment required before or at lease consummation, or by delivery if delivery takes place after consummation, or that no payment is required - or

The amount of any payment,

It must include these disclosures clearly and conspicuously:

That the transaction advertised is a lease,
The total amount due before or at consummation, or by delivery if delivery takes place after consummation,
The number, amounts and due dates or periods of scheduled payments under the lease,
Whether or not a security deposit is required, and
In leases where the consumer's liability is based on the difference between the property's residual value and its realized value at the end of the lease term, that an extra charge may be imposed at the end of the lease term.

Q. What disclosure rules apply to the total amount due at consummation or delivery?

A. Keep in mind the following:

The total amount due at consummation or delivery must be stated. If you also choose to itemize the total amount due at consummation or delivery, the total amount due at consummation or delivery must still be clear and conspicuous, that is, readable and understandable to consumers.

Except for the periodic payment, any positive or negative reference to a charge that is part of the total amount due at consummation or delivery cannot be more prominent than the total amount due at consummation or delivery.

If third-party fees that vary by state or locality - such as taxes, license or registration - are involved, your ad may give a total amount due at consummation or delivery including the fees based on a particular state or locality while explaining that fact and the fact that such fees vary by state or locality or, exclude the fees from the total amount due at consummation or delivery but disclose that fact. The disclosures about third-party fees also must be clear and conspicuous.

Q. What if my ad promotes several leased items?

A. If a triggering term appears, you can use an example of one or more typical leases - if you disclose the required terms that apply to each. The examples must be labeled as such and must reflect representative lease terms made available to consumers.

Q. Are there special rules for advertising a lease rate?

A. Yes, your ad must include the following statement near the rate without any intervening language or symbols: "This percentage may not measure the overall cost of financing the lease." In addition, except for the notice, the rate cannot appear more prominently than any terms in the ad that are required written disclosures under the amended CLA and Regulation M, such as "gross capitalized cost," "residual value" and others. You also cannot refer to the lease rate as an "annual percentage rate," "annual lease rate," or other equivalent term.