



Auto Informer

July 30, 2010

Issue 05

The mission of the Office of Consumer Affairs ("OCA") is to protect consumers and businesses from unlawful, deceptive and unfair practices in the marketplace by enforcement of the laws we administer and through education.

The Office of Consumer Affairs enforces the Georgia Fair Business Practices Act ("FBPA"), which prohibits unfair and deceptive acts or practices in the conduct of consumer transactions and consumer acts or practices that are unlawful. OCA also enforces the *Automobile Advertising and Sales Practices Enforcement Policies*, which are intended to further explain the application of the FBPA to issues that pertain to automobile advertising and sales.

You are Pre-qualified!

Firm Offers of Credit

Statements, such as "You are Pre-qualified" and "You are Pre-approved," suggest that the advertiser has pre-screened or evaluated a consumer's credit status in order to make a firm offer of credit. Be advised that statements such as "You May Be Pre-Qualified" and "Maybe You Are Pre-qualified" may not meet the requirements for firm offers of credit and could lead to allegations of violations of the Fair Credit Reporting Act.

Representations that a consumer has been "Pre-qualified" or "Pre-approved" for a loan should not be used in conjunction with a range of loan amounts or terms such as "up to \$10,000." It is, however, permissible to state the minimum amount for which the consumer has been pre-qualified or pre-approved.



Work Order Lemon Law Requirements

DO YOU KNOW THE GA LEMON LAW REQUIREMENTS REGARDING WORK ORDERS?

We certainly hope so! You, as the dealer, play a critical role in the efficient and effective operation of the Georgia Lemon Law. A properly completed work order is a vital piece of evidence for both consumers and manufacturers in the event of a Lemon Law dispute.

Code section 10-1-783(d) of the amended Lemon Law expanded the situations in which dealers must provide work orders to consumers and the information that must be included on the work order itself. If the repair visit involves a new motor vehicle purchased or leased in Georgia on or after January 1, 2009, the dealer must provide the consumer with a copy of the work order regardless if the visit is beyond the lemon law rights period or the manufacturer's warranty period. This provision also applies to visits when no repairs are performed (e.g., "diagnosis of intermittent problem, no problem found"). The work order must be legible and must include the following information:

- The date and odometer reading when the vehicle was submitted for repair.
- A general description of the problem reported by the consumer.
- A description of any diagnosis of the problem and the results of any diagnostic test, inspection or test-drive.
- An itemization of all work performed on the vehicle, including, but not limited to, parts and labor.
- The date and odometer reading when the vehicle was made available to the consumer.

Failure to provide a consumer with a work order or a fully completed work order is a violation of the Fair Business Practices Act. Each violation is subject to a civil penalty of up to \$2,000.

This Quarter's Common Violation

Advertising "Select Vehicles"

The use of terms such as "Select Models," "Select Vehicles," "A Special Selection," and other terms of similar import should only be used in connection with advertised offers if the ad specifically states those models that are included or excluded from the offer.

50% OFF
Select Vehicles

Trivia Questions!

Q: Is it illegal for a dealer to advertise wholesale prices in an automobile advertisement?

A: YES.

No person, firm, or association may represent that it is a "wholesaler" or selling goods at "wholesale prices" to the consuming public. It is also illegal for a company to misrepresent the true nature of its business by use of the word "wholesaler" or words of similar import.

Q: Can "doc fees" be advertised as additional fees?

A: NO.

All fees, excluding government fees and taxes, must be included in the advertised prices. You may not separate fees from the advertised price. Therefore, you must include all fees in the advertised price, including "doc fees," "administrative fees," administration fees, documentary/processing fees, freight, transportation, destination, options (except customer requested), dealer added equipment, or similar charges. Any ad that excludes any cost or fee, other than tax, tag, title, and lemon law fees (formerly WRA fees), is considered deceptive.



Test Your Knowledge

GET **\$1,000** IN OWNER LOYALTY CASH

Special Incentive Programs

Our office has noticed an increase in the number of consumer complaints about Special Incentive Programs. Complaints allege that dealers are refusing to sell vehicles at the advertised price, because the advertisement included a special incentive, discount, and/or rebate. Special incentives, like rebates, discounts, and/or financing that only apply to a small percentage of the buying public, may not be advertised as the price that all consumers will pay. These offers are permitted when advertised within a starburst or in some other fashion set apart from the regular advertised price.



It is considered deceptive and misleading to advertise terms such as "dealer cost," "dealer invoice," or terms of similar import without additional disclosure, because these terms do not refer to universal or standard documents in the industry and are not readily understood by the consuming public. Therefore, these terms may not be used in advertisements unless the ad includes a full explanation of the claim and discloses those items that are included in the advertised price. Both the explanation and the disclosure must appear in the immediate proximity of the term.

"Factory Invoice" refers to the manufacturer's initial charge to the dealer. Offers to sell vehicles for below, at, or near "Factory Invoice" are considered acceptable, provided they are honored and can be substantiated. As always, the advertised price may only exclude tax, tag, title, and WRA (Warranty Rights Act) fees.

OCA Ad Review



As a courtesy to dealers and marketing companies, our office does review automobile advertisements prior to dissemination. The Governor's Office of Consumer Affairs *does not approve ads*, but we will review them and advise of any changes that need to be made.

Please be advised that all ads must be submitted directly to the Compliance Investigator at The Office of Consumer Affairs, who will review your ads within 2 business days.

Copies of the Fair Business Practices Act and *Automobile Advertising and Sales Practices Enforcement Policies* can be found on our website at www.consumer.georgia.gov