

Advertising



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

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Outline

- What Is Advertising?
- What Laws Apply?
- False & Misleading, Availability, Accuracy, Untrue Claims
- Savings Claims/Discounts & Dealer Price Advertising
- Identification of Vehicle, Trade-In Allowance, Free Offers
- Financing Disclosures
- Bait Advertisements, Lowest Price Claims
- Lease Advertising Guide
- Enforcement Action on Complaints
- Frequently Asked Questions





What Is An Advertisement?

43 TEX. ADMIN CODE §215.244

Advertisement

- An oral, written, graphic, or pictorial statement or representation made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, or letter, or on radio, the Internet, or via an on-line computer service, or on television.
- Does not include direct communication between a dealer or dealer's representative and a prospective purchaser.



State Statutes

TEXAS OCCUPATIONS CODE § 2301.351

A Dealer May Not:

- Violate a board rule.
- Aid or abet a person who violates this chapter... or a rule adopted under this chapter.
- Use FALSE, DECEPTIVE, UNFAIR OR MISLEADING advertising relating to the sale or lease of motor vehicles.



Board Rules

43 TEX. ADMIN. CODE § 215.241

Objective: Regulate advertising by requiring **truthful and accurate advertising practices for the benefit of the citizens of this State.**

43 TEX. ADMIN. CODE § 215.242

General Prohibition - A person advertising motor vehicles shall not use FALSE, DECEPTIVE, UNFAIR, OR MISLEADING advertising. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the Board to be false, deceptive, or misleading, whether or not enumerated herein, shall be deemed violations of the Code, and shall also be considered violations of the general prohibition.

Note: Specifics do not have to be addressed in rule.



Board Rules

- § 215.242 – False, Deceptive, Unfair or Misleading
- § 215.245 – Availability of Vehicles
- § 215.246 – Accuracy
- § 215.247 – Untrue Claims
- § 215.248 – Layout
- § 215.249 – MSRP
- § 215.250 – Dealer Price Advertising; Savings Claims; Discounts
- § 215.251 – Identification
- § 215.252 – Advertising Cost/Invoice
- § 215.253 – Trade-in Allowances
- § 215.254 – Used Vehicle Identification
- § 215.255 – Demos, Factory, Executives/Official Vehicles
- § 215.256 – Free Offers
- § 215.257 – Authorized Dealer
- § 215.258 – Mfg./Distributor Rebates
- § 259.259 – Rebate / Financing Rate
- § 215.260 – Lease Advertisements
- § 215.261 – Mfg. Sales; Wholesale Prices
- § 215.263 – Sales Payment Disclosures
- § 215.264 – Lease Payment Disclosure
- § 215.265 – Bait Advertisement
- § 215.266 – Lowest Price Claims
- § 215.267 – Fleet Prices
- § 215.268 – Bankruptcy/Liquidation Sale
- § 215.269 – Finding of Violation
- § 215.270 – Enforcement
- § 215.271 – Auction



Texas Deceptive Trade Practices Act & 43 TEX. ADMIN. CODE § 215.242

False, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful and are subject to civil action brought by consumer.

This includes, but is not limited to, the following acts:

- Advertising goods or services with intent not to sell them as advertised. (**Misleading**)
- Advertising goods or services with intent not to supply a reasonable expectable public demand, unless the advertisements disclosed a limitation of quantity. (**Availability**)
- Advertising of any sale by fraudulently representing that a person is going out of business. (**False Claims**)

Business and Commerce Code, Ch. 17 – Deceptive Trade Practices



Federal Statutes

The FEDERAL TRADE COMMISSION ACT prohibits **unfair** or **deceptive** advertising in any medium.

Advertising must tell the truth and not mislead consumers.

Claims must be substantiated.

A representation, omission, or practice is **deceptive** if it is likely to:

- Mislead consumers and
- Affect consumers' behavior or decisions about the product or service

An act or practice is **unfair** if the injury it causes, or is likely to cause is:

- Substantial
- Not outweighed by other benefits, and
- Not reasonably avoidable



FTC, Multiple Law Enforcement Partners Announce Crackdown on Deception, Fraud in Auto Sales, Financing & Leasing

March 26, 2015

The Federal Trade Commission and 32 law enforcement partners today announced the results of Operation Ruse Control, a nationwide and cross-border crackdown to protect consumers when purchasing or leasing a car, encompassing 252 enforcement actions. The six new FTC cases include more than \$2.6 million in monetary judgments.

“For most people, buying a car is one of the largest purchases they’ll make,” said Jessica Rich, Director of the FTC’s Bureau of Consumer Protection. “Car ads must be truthful, loan terms must be clear, and dealer practices must be honest. That’s why our partners are working together to crack down on deceptive marketing about car sales, leasing and financing.”

Cases Involving Deceptive Advertising

Three auto dealers, Cory Fairbanks Mazda of Longwood, Fla., Jim Burke Nissan of Birmingham, Ala., and Ross Nissan of El Monte, Calif., have agreed to settle charges that they ran deceptive ads that violated the FTC Act, and also violated the Truth in Lending Act (TILA) and/or Consumer Leasing Act (CLA). According to the FTC complaints, ads touted sales, lease or financing options that seemed attractive but were cancelled out by fine-print disclaimers. In other instances, the disclaimers did not disclose relevant terms, such as required down payments. The proposed settlements in these actions prohibit the defendants from misrepresenting the purchase cost or any other material fact about the price, sale, financing or leasing of a vehicle. Jim Burke Nissan and Cory Fairbanks Mazda are also prohibited from representing that a discount, rebate, bonus, incentive or price is available unless it is available to all consumers, or all qualifications and restrictions are clearly and conspicuously disclosed.

Source: <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-multiple-law-enforcement-partners-announce-crackdown>



Federal Trade Commission Regulations: www.FTC.gov/Enforcement

DECEPTIVE CAR ADS

Some auto dealers put tempting promises in their ads. But when you try to close the deal, it's another story.

Common Ads & What They Might Hide

LOW, LOW PRICE!

What's missing?
They require a downpayment, plus fees hidden in the fine print.

Only \$99/ Month

What's missing?
Advertised payments are temporary and "balloon" later.

zero or low-rate loans

What's missing?
That advertised low rate sounds great – but when you go to sign the contract, you learn it doesn't apply to you.

YOU WON!

What's missing?
The prize. It's just a way to get you into the showroom.

What to do

Walk away from any dealer whose up-front offer comes with a back-end surprise.
File a complaint at ftc.gov/complaint.

ftc.gov/cars

Federal Trade Commission
March 2015



Mouse Print

The advertisement is for Cory Fairbanks Mazda, located at 400 North US Hwy. 17-52, Longwood, Florida. It features a variety of Mazda vehicles with prices and promotional offers. Key elements include:

- Top Header:** Cory Fairbanks Mazda, www.BigMazda.com, and a phone number.
- Main Offer:** "NATIONWIDE LIFETIME WARRANTY" with a "FREE GIFT CARD" and "With Every Test Drive!".
- Vehicle Listings:**
 - 2016 Mazda2: \$8,990 + \$139
 - 2016 Mazda3: \$12,995 + \$169
 - 2014 Mazda CX-3: \$14,995 + \$199
 - 2016 Mazda CX-5: \$15,995 + \$199
 - 2014 Mazda CX-9: \$20,995 + \$10,000 OFF
- Guaranteed Approval:** "GUARANTEED APPROVAL Credit Approval! CALL TODAY! 877-700-9790"
- Bottom Section:** "TEST DRIVE A MAZDA TODAY AND GET A FREE GIFT CARD! CENTRAL FLORIDA'S USED CAR SUPERCENTER" with a grid of used cars and a "Saturday 9am Used Cars \$99 as low as" offer.
- Footer:** "Nobody Ever Beats a CORY FAIRBANKS MAZDA DEAL... NOBODY!" and contact information for Cory Fairbanks Mazda.

Mouse print refers to any part of an ad that is in an unreadable format and is not clearly and conspicuously presented so that it is readily noticed and understood.



Mouse Print


mazda

Cory Fairbanks Mazda

Call 1-877-700-9790

Shop On Line! BigMazda.com Hablamos Español

400 North US Hwy. 17-92, Longwood, Florida


BBB
ACCREDITED BUSINESS

See dealer for details and restrictions. Must present this offer upon entering dealership. Not valid with other offers or discounts. Not valid on past sales. All lease payments are \$3,000 down, 42 months, 10,000 miles per year plus tax, tag, and fees. All prices after \$3,000 cash or trade equity plus all incentives and dealer add-ons. Ask for details and restrictions.


Florida Ave.
Orango Ave.
CORY FAIRBANKS MAZDA
N. Hwy. 17-92

All the financing offers, lease payments, and \$0 down references in this ad are completely undermined by the fine print, which requires \$3,000 down for all deals.



“FTC Sends Checks to People Who Had Junk Fees Added to Their Vehicle Purchases”

“The FTC is sending 18,007 checks totaling more than \$3.3 million to people who bought cars and trucks from Passport Automotive Group, a Washington D.C.-area auto dealer.”

“The FTC sued Passport in 2022, alleging that Passport advertised specific prices for its cars but later added hundreds, or even thousands, of dollars in illegal junk fees for services like certification, reconditioning, or inspection, and falsely claimed that these were required fees. According to the lawsuit, these dealerships also discriminated against Black and Latino customers by charging them more for fees and financing costs.”

Source: <https://www.ftc.gov/enforcement/refunds/passport-automotive-group-refunds>





Texas Department
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Availability

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Availability

43 TEX. ADMIN. CODE § 215.245

A licensee may advertise a specific new vehicle or line-make of vehicles for sale if the specific vehicle or line-make is in the possession of the licensee at the time the advertisement is placed, **or if the specific vehicle or line-make is not in the possession of the licensee at the time the advertisement is placed, the licensee clearly and conspicuously discloses that fact in the advertisement and states that the vehicle may be obtained from the manufacturer, distributor, or some other source; and**

The advertisement sets forth the number of vehicles available at the advertised price, if a price is advertised, at the time the advertisement is placed; **or**

A dealer can show he has available a reasonable expectable public demand based on prior experience.



Availability

43 TEX. ADMIN. CODE § 215.245

- If an advertised price pertains to only one specific vehicle, then the advertisement must also disclose the vehicle's stock number or vehicle identification number.
- This section does not prohibit general advertising of vehicles by a manufacturer, dealer advertising association, or distributor and the inclusion of the names and addresses of the dealers selling such vehicles in the particular area.
- A motor vehicle dealer may advertise a specific used vehicle for sale if:
 - The specific used vehicle is in the possession of the dealer at the time the advertisement is placed; and
 - The title certificate to the used vehicle has been assigned to the dealer.



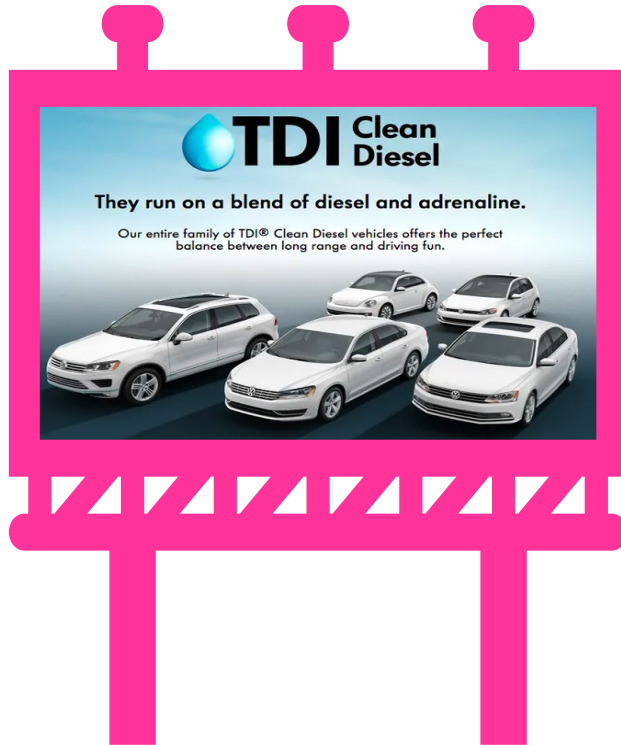


Texas Department
of Motor Vehicles

Accuracy

Accuracy

43 TEX. ADMIN. CODE § 215.246



All advertisements shall be accurate, clear, and conspicuous and shall not be false, deceptive, or misleading.

In Final Court Summary, FTC Reports Volkswagen Repaid More Than \$9.5 Billion To Car Buyers Who Were Deceived by “Clean Diesel” Ad Campaign



Reference: <https://www.ftc.gov/news-events/news/press-releases/2020/07/final-court-summary-ftc-reports-volkswagen-repaid-more-95-billion-car-buyers-who-were-deceived-clean>





Texas Department
of Motor Vehicles

Untrue Claims

Untrue Claims

The following statements are prohibited:

- Name Your Own Monthly Payments
- Credit Problems - No Problem
- Write Your Own Deal
- Name Your Own Price
- Everybody Financed
- No Credit Rejected
- Guaranteed Approval



Untrue Claims

43 TEX. ADMIN. CODE § 215.247

The following statements are prohibited:

- Statements such as "write your own deal," "name your own price," "name your own monthly payments," or statements with similar meaning.
- Statements such as "everybody financed," "no credit rejected," "we finance anyone," and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit.
- Statements representing that no other dealer grants greater allowances for trade-ins, however stated, unless the dealer can show such is the case.
- Statements representing that because of its large sales volume a dealer is able to purchase vehicles for less than another dealer selling the same make of vehicles, unless the dealer can show such is the case.





Texas Department
of Motor Vehicles

Savings Claims/Discounts

Savings Claims/Discounts

43 TEX. ADMIN. CODE § 215.250

- A savings claim or discount offer is prohibited except to advertise a **NEW** motor vehicle.
- Statements such as “Up to,” “As much as,” and “From” cannot be used when advertising a savings or discount claim.
- On a **NEW VEHICLE**, the advertisement must show the difference between the dealer's sale price and the manufacturer's, distributor's or converter's total suggested list or retail price.
- That's **NEW** motor vehicles **ONLY** - No person may advertise a savings claim or discount offer on **USED** motor vehicles.



Savings Claims/Discounts

Violations We See:

- **Was \$2,500 Now \$2,300**
- Bluebook Value and Now
- NADA Value and Now
- Original MSRP and Now

These terms cannot be used. The ad implies an advertised savings on a used motor vehicle.



Price: \$51,815

SAVE \$14,500 -ON THIS 2013 KING RANCH 4X4 6.7L F-250

ABSOLUTELY LOADED!

WAS \$66,315

NOW \$51,815

CLICK [HERE](#) TO APPLY FOR FINANCING

2013
Ford
F-250
Super
Duty
King
Ranch
4X4
Ext.
Color:
Ruby
Red
Metallic Tinted Clear Coat
Int. Color: Dune
Engine: 8 Cyl.
Transmission: Shiftable Automatic
Stock#: 133461

All advertised prices exclude government fees (registration, title, license), taxes, finance charges, and dealer doc fees. Subject to prior sale. Financing restrictions apply. Certain discounts require financing with RMC (44% approved credit) or Trading in a 1995 model or newer vehicle (except purchase). Manufacturer may change prices without prior notice. Please check dealer for actual pricing, availability, and to confirm eligibility of each vehicle for Sales Tax Exemption. Not responsible for long haul deliveries. Price not valid for Commercial Fleet sales. Contact dealer for full details.

Used 2013 Ford F-250 SuperDuty King Ranch



Savings Claims/Discounts

IMPROPER AD:

Limited rebate included in featured savings calculation

New 2024 GMC Sierra, Stock #12345

Includes \$2,500 Rebate Active-Duty members, Reserves, Veterans within one year of discharge date and Retirees of the U.S. Military, \$5,000 dealer discount and \$5,000 Customer cash. The \$2,500 military rebate cannot be included in the total savings of \$12,500. The total savings advertised should be \$10,000 as there are no limitations on the dealer discount and the customer cash rebate.





Dealer Price Advertising

Dealer Price Advertising

43 TEX. ADMIN. CODE § 215.250

When **featuring** an advertised sale price of a new or used motor vehicle, the dealer must be willing to sell the vehicle for such advertised price to any retail buyer.

The advertised sale price shall be the price before the addition or subtraction of any other negotiated items. The only charges that may be excluded from the advertised price are listed on the next page...

A disclaimer doesn't get you out of rule compliance.



Dealer Price Advertising

43 TEX. ADMIN. CODE § 215.250

YOU CAN EXCLUDE FROM ADVERTISED PRICE

- Any registration, certificate of title, license fees, or an additional registration fee, if any, charged by a full-service deputy as provided by Texas Transportation Code § 502.114;
- Any taxes; and
- Any other fees or charges that are allowed or prescribed by law.

NO QUALIFICATIONS ON ADVERTISED PRICE

- A qualification may not be used when advertising the price of a vehicle such as "with trade," "with acceptable trade," "with dealer-arranged financing," "rebate assigned to dealer," or "with down payment".



Dealer Price Advertising: Internet Pricing

When featuring an advertised sale price of a new or used motor vehicle, the dealer must be willing to sell it for such advertised price **to any retail buyer**.

Advertising an “**Internet price**,” “**e-price**,” or using similar terms that indicate or create the impression that there is a different or unique sales price for an on-line Internet consumer or transaction is **prohibited**.

The only exclusions from the advertised price are TT&L and other fees allowed by law.



Dealer Price Advertising

2014 Ford F-150 SuperCrew Cab

Engine: 3.5L V6 EcoBoost, Electronic Locking w/3.55 Axle Ratio, 3.5L V6, 4WD, automatic, SuperCrew Cab, 3 miles, 21 MPG Hwy, White, stock # E153, new,

Get down the road in this great Truck, and fall in love with driving all over again* Real gas sipper!!! 21 MPG Hwy! This...more

Internet Price \$50,948

As Low As 0.9% APR*
View incentive details

CARFAX
ADVANTAGE
DEALER

VIEW DETAILS

SAVE & COMPARE

Get Financed Contact Seller Send To Friend Additional Savings



Dealer Price Advertising

DISCOUNT SAVINGS CLAIM ADVERTISED

If an advertisement discloses a discount savings claim, this incentive must be disclosed as a deduction from the manufacturer's suggested retail price (M.S.R.P.).

Proper Format:

New 2023 GMC Sierra 1500, Stock #1234

MSRP/DSRP \$72,000

Dealer Discount -\$1,000

SALE PRICE **\$71,000**



Dealer Price Advertising

MANUFACTURER REBATE ADVERTISED

If an advertisement discloses a rebate, this incentive must be disclosed as a deduction from the M.S.R.P.

Proper Format:

New 2023 Dodge Charger, Stock #1588	
MSRP/DSRP	\$40,000
<u>Rebate (Available to all buyers)</u>	<u>-\$1,000</u>
SALE PRICE	\$39,000

\$39,000



Dealer Price Advertising

REBATE AND DISCOUNT SAVINGS CLAIM ADVERTISED

If an advertisement discloses both a rebate and a discount savings claim, the incentives must be disclosed as a deduction from the M.S.R.P.

Proper Format:

New 2023 Toyota Tundra, Stock #1888	
MSRP/DSRP	\$48,000
Rebate	-\$1,000
(Rebate available to all buyers)	
Dealer Discount	-\$500
SALE PRICE	\$46,500



Dealer Price Advertising

MANUFACTURER DISCOUNT ON PACKAGE OF OPTIONS

If the manufacturer offers a discount on a package of options, then that discount should be disclosed above or prior to the M.S.R.P. with a total price of the vehicle before option discounts.

Proper Format:

New 2023 GMC Sierra 1500, Stock #1288	
Total Vehicle Price Plus Options	\$44,000
Option Package Discount	-\$2,000
MSRP/DSRP	\$42,000
Rebate	-\$1,000
(Rebate available to all buyers)	
Dealer Discount	-\$2,000
SALE PRICE	\$39,000

\$39,000



Dealer Price Advertising

SELECTED LIMITED REBATE

If a rebate is only available to a selected portion of the public, it cannot be used in the featured sales price or featured savings.

A limited rebate may be advertised by providing the amount and explaining the conditions or restrictions on qualification in a statement below the featured sales price or featured savings claim or discount.

Proper Format:

New 2023 Nissan Titan, Stock #1314	
MSRP/DSRP	\$40,200
Rebate	-\$2,000
(Rebate available to all buyers)	
Dealer Discount	-\$1,000
SALE PRICE	\$37,200

Extra \$500 NMAC Cash available only if you qualify and finance through NMAC.

\$37,200



Dealer Price Advertising

NO CONDITIONAL PRICE ALLOWED

A “conditional price” may not be used to reflect the total deduction of the conditional rebates.

Proper Format:

New 2023 GMC Terrain, Stock #1924

MSRP/DSRP \$29,000

Customer Cash -\$500

(Rebate available to all buyers)

Dealer Discount -\$2,000

SALE PRICE **\$26,500**

Conditional Rebates:

GMF Down Payment Assistance-\$1,000

GM Conquest -\$1,000



Dealer Price Advertising

NO CONDITIONAL PRICE ALLOWED

A conditional sales price cannot be listed as this misleads the consumer into believing the conditional price is the sale price of the vehicle.

If an offer is not available to any retail buyer, it must be shown below the featured sales price. List the amount and the nature of the limitation of the conditional rebate.



Dealer Price Advertising

EXCEPTION ALLOWED FOR RESIDENCY RESTRICTED LIMITED REBATE

If the dealer wants to include a residency restricted limited rebate in the featured sales price, then the disclaimer below must be placed near the featured sale price.

Limited Rebate Example

MSRP	\$20,000
Dealer Discount	-\$1,000
*Manufacturer's Rebate or Additional Dealer Discount	<u>-\$500</u>
Sale Price	\$18,500

*Manufacturer's Rebate subject to residency restrictions. Any customer not meeting the residency restrictions will receive a dealer discount in the same amount of the manufacturer's rebate.



Internet Advertisement with Multiple Limited Rebates Available

A dealer may display each limited rebate separately allowing a potential buyer to “click” on the applicable limited rebate to view the **POP-UP** sales price.

The nature of the limitation for each rebate must also be disclosed:

Additional Available Limited Rebates

(Click the applicable box or boxes for sales price)

- HISD Teachers Receive Additional \$500 Discount
- Active-Duty Military Receive Additional \$500 Discount
- Dallas Metro Residents Receive Additional \$500 Discount
- Loyalty Owner Receive Additional \$500 Discount
- “X” Financing Receive Additional \$500 Discount

Sales price with any selected discounts \$ _____



Dealer Added Accessories

If a dealer has added after-market options (non-OEM - Original Equipment Manufacturer) to a vehicle prior to sale, the dealer must display an addendum on the vehicle listing these items and the charge for each item.

These charges must be totaled to arrive at a featured sale price which coincides with the advertisement for this vehicle.

A dealer discount may not be advertised on this vehicle if the added options are non-OEM. However, a manufacturer's rebate which is available to all buyers can be included in the price equation.

Proper Format

New 2024 Chevrolet Silverado, Stock #KL1313

MSRP \$75,000

Addendum +\$10,000

Rebate (Available to all buyers) -\$1,000

FEATURED SALE PRICE \$26,165



Dealer Price Advertising

WHEN MANUFACTURER DELIVERY & HANDLING CHARGE IS NOT INCLUDED IN THE M.S.R.P.

If an advertisement discloses a discount savings claim, this incentive must be disclosed as a deduction from the manufacturer's suggested retail price (M.S.R.P.).

Proper Format:

New 2023 Chevrolet Corvette, Stock #X4050

MSRP/DSRP \$56,000

Manufacturer Delivery & Handling \$880

Total Price \$56,880

Manufacturer Rebate -\$2,000

(Rebate available to all buyers)

Dealer Discount -\$2,000

SALE PRICE/FEATURED **\$52,880**



Additional LIMITED Rebates Can Be Added Below Featured Price





Texas Department
of Motor Vehicles

Identification of Vehicle Offered for Sale

Identification of Vehicle Offered for Sale

IMPROPER AD

When advertising a vehicle price with:

- Fully Equipped
- Loaded
- Factory Equipped

These terms shall NOT be used unless the optional equipment is listed in the ad.



Identification of Vehicle Offered for Sale 43 TEX. ADMIN. CODE § 215.251

When the PRICE of a vehicle is advertised, the following must be disclosed:

- Model year,
- Make,
- Model line and style or model designation; and
- Whether the vehicle is a used, demonstrator, or a factory executive/official vehicle.

“LOADED” OR “FULLY EQUIPPED”

Expressions such as "fully equipped," "factory equipped," "loaded," and other such terms shall NOT be used in any advertisement that contains the price of a vehicle unless the optional equipment of the vehicle is listed in the advertisement.

ILLUSTRATIONS

An illustration of a motor vehicle used in an advertisement must be substantially the same as that of the motor vehicle advertised.





Texas Department
of Motor Vehicles

Trade-In Allowance

Trade-In Allowance

EXAMPLES OF VIOLATIONS OF THE RULE

- No less than \$4,000 for your trade
- Guaranteed \$2,000 for your clunker
- We'll give you \$1,000 to \$3,000 for your 1999 or older trade



Trade-In Allowance

43 TEX. ADMIN. CODE § 215.253

- No guaranteed trade-in amount or range of amounts shall be used in advertising.
- Cannot advertise that an offer is any specific amount or range of amounts over blue book value, black book value or other similar language.
- A link to the KBB pinwheel chart depicting several different prices is okay as long as it takes you off a dealer's website to another site.



Free-Offers

43 TEX. ADMIN. CODE § 215.256

Is it *REALLY* Free?

- Can the vehicle be purchased for a lesser price without the free item?
- Has the price of the vehicle been increased to cover all or part of the cost of the free item?
- Does the ad clearly and conspicuously disclose the conditions under which the free offer may be obtained?





Texas Department
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Financing Disclosures

Financing Disclosures

What We See

- Ads with Down Payment Only
 - \$100 Down
 - 25% Down
- Ads with Monthly Payment Only
 - \$500 a Month!



**Used 2003 Nissan XTERRA,
Stock #12345
\$995 DOWN + TT&L**



Triggering Terms

43 TEX. ADMIN. CODE § 215.263

An advertisement that contains ANY OF THE FOLLOWING:

- The amount of a down payment, in either a percentage or dollar amount.
- The amount of any payment, in either a percentage or dollar amount.
- The number of payments.
- The period of repayment; or
- The amount of any finance charge.

Then you must include ALL OF THE FOLLOWING in the ad:



Triggering Terms

43 TEX. ADMIN. CODE § 215.263

- The amount or percentage of the down payment (except \$0 down);
- The terms of repayment (from which the number of months to make repayment and the amount per month can be determined) including any balloon payment;
- The annual percentage rate or APR; and
- The amount of annual percentage rate, if increased, after consummation of the credit transaction.

ANY OF ITEMS IN THE FIRST GROUP TRIGGERS THE REQUIREMENT FOR ALL ITEMS IN THE SECOND GROUP!





Bait Advertisements

Bait Advertisement

43 TEX. ADMIN. CODE § 215.265

A “bait” advertisement makes an alluring, but insincere offer to sell a product and for which the primary purpose is to obtain leads to persons interested in buying the merchandise of the type advertised, and then 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.





Lowest Price Claims

Lowest Price Claims

What We See Advertised:

- Lowest Prices In Town!
- We Have The Best Deal and Best Price!



Lowest Price Claims

43 TEX. ADMIN. CODE § 215.266

LOWEST PRICE, BEST PRICES, BEST DEAL

- Representing a lowest price claim, best price claim, best deal claim, or other similar superlative claims shall not be used in advertising.

MEET OR BEAT CLAIMS

- If a dealer advertises a "meet or beat" guarantee, then the advertisement must clearly and conspicuously disclose the conditions and requirements necessary for a person to receive any advertised cash amount. The ad must also show how a dealer will beat another dealer's offer by stating how much they will beat the other offer by: For example: that the customer must present a signed offer of similar year, make, model, and accessories.





Texas Department
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Leasing

Lease Advertising Guide

A lease advertisement must include the following:

General Requirements:

- Clearly and conspicuously disclose that the advertisement is for the **LEASE** of a vehicle.
- State whether it's an open-end or closed-end lease.
- List the total Dollar amount of all fees due at signing (must be an amount or reference to first payment amount due) plus TT&L.
- Provide the monthly lease payment amount, plus the total amount paid during the lease term.
- List the duration of the lease term (number of months).
- State whether or not a security deposit is required.
- State whether or not an early termination fee applies.
- State whether excessive wear and tear fees apply.
- Provide the per year mileage allowance and any fee attached to overages (Must list Fee).
- Provide details regarding maintenance responsibility.
- State that customer is responsible for auto insurance on the leased vehicle, and
- State if any penalties or other charges will be imposed for payment delinquency.



Lease Advertising Guide

If the advertisement includes a percentage rate, the advertisement:

- Must include the following statement: “This percentage may not measure the overall cost of financing this lease.”
- Cannot use the terms “annual percentage rate,” “annual lease rate,” or any similar phrases.

If the lease is open-ended, the advertisement must:

- Include all general lease information.
- Contain a statement describing any extra charge due at the end of the lease if there is a difference in the residual value and the realized value of the vehicle must be provided; and
- Disclose any balloon payment due at the end of the lease term.



Lease Advertising Guide

If advertising a lease on a website, the advertisement must:

- Include all general lease information and that information must be available for consumers to view on the website, and
- Include a disclaimer at the bottom of the advertisement or via a hyperlink that includes the required general lease information if the above-listed general lease information is not already part of the main body of the advertisement.

If advertising a lease in a printed format (newspaper, magazine, brochure, etc.), the advertisement must:

- Include all general lease information, and
- Include a disclaimer with the required general lease information if the above-listed general lease information is not already part of the main body of the advertisement.



Lease Advertising Guide

If advertising a lease on television or radio, the advertisement must:

If any of the required lease terms are referenced,

- State that the transaction being advertised is a lease.
- State the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation.
- State the number, amounts, and due dates or periods of scheduled payments under the lease, and
- Provide a toll-free number for consumers to obtain the remaining lease information, (Available no fewer than 10 days beginning on the date of the broadcast and the lessor shall provide the required general lease information either orally or in writing, or
- Direct consumers to a written advertisement in a publication of general circulation that contains the remaining lease information.(The written advertisement shall be published at least 3 days before and ending at least 10 days after the broadcast).





Texas Department
of Motor Vehicles

Complaints

Enforcement Action on Complaints

ALL COMPLAINTS ARE INVESTIGATED

FIRST VIOLATION – CURE LETTER

TEX. OCC. CODE § 2301.203(C)

- TEXAS OCCUPATIONS CODE § 2301.651 -The board may take action to revoke or suspend a license or deny an application if license holder: (3) violates this chapter or a board rule or order; or (4) “violates ANY LAW relating to the sale, distribution, financing, or insuring of motor vehicles; or willfully defrauds a purchaser.
- “ANY LAW” includes all state statutes and rules, federal statutes and regulations and local ordinances
- TEXAS OCCUPATIONS CODE § 2301.801 - If the board determines that a person has violated this chapter, a rule adopted or order adopted under this chapter” the board may impose a civil penalty not to exceed \$10,000 for each violation. Each act of violation and each day a violation continues is a separate violation.





Frequently Asked Questions

What is DSRP?

New definition for Distributor Suggested Retail Price:

The total price on the motor vehicle as shown on the Monroney label as provided by the distributor.



Can I advertise “starting at” or starting from” in a price advertisement?

YES, only if the following information is provided:

- The vehicle is identified by VIN or stock number
- State the level of model (base model)
- The vehicle must be in the dealer’s inventory
- State the number of vehicles available in dealer’s inventory

The advertised price is the price that must be available to everyone.

The featured price must comply with the formula requirements that show the MSRP/DSRP and any available discounts or rebates.



Can I reference the invoice or advertise the dealerships cost in my advertisement?

No.

The terms “dealer’s cost,” “invoice,” and “invoice price” **cannot** be used in advertisements.



What do I do if my third-party internet provider claims it cannot comply with Texas advertising rules?

- Inform the internet provider that the dealership is responsible for compliance with the Texas Department of Motor Vehicles' advertising rules and regulations.
- A violation could result in the imposition of an administrative penalty.
- Explore other available layout options that are compliant with the rules and regulations.



Can I advertise “No Credit Application Rejected”?

No.

A dealer may not imply that every credit purchaser is accepted.

To advertise that no credit application is rejected implies that no customer will be rejected based on their credit.



Can I advertise a disclosure on the internet with a click or hover?

In internet advertising, a disclosure may be compliant if:

1. The viewer hovers a mouse or cursor on highlighted text or images that shows an immediate and legible disclosure or
2. Only one click on select text or image is required to view the disclosure AND the internet advertisement clearly and conspicuously indicates where to hover or click for the disclosure AND it is in close proximity to the information being disclosed.



Can I advertise a sales price without showing the formula?

Yes.

The advertised sales price must be available to any purchaser.

However, if a rebate or discount is discussed in the advertisement, the formula showing how the sales price was derived must be shown in the advertisement and must come from the MSRP.



How do I advertise a used motor vehicle?

- Identify the advertised vehicle as “used” or “pre-owned.”
- Terms such as “program car,” “special purchase,” “factory repurchase,” or other similar terms do not identify the vehicle as used.
- Do not advertise a savings on a used motor vehicle.



Can I advertise a percentage off MSRP/DSRP in lieu of a specific dollar amount off MSRP/DSRP?

Example: “25% off of MSRP/DSRP?”

This type of advertisement is permissible if the formula or breakdown is shown in the advertisement:

New 2023 Vehicle 25% off MSRP/DSRP!

MSRP/DSRP	\$20,000
Dealer Discount	-\$3,000
<u>Manufacturer’s Rebate</u>	<u>-\$2,000</u>
SALE PRICE	\$15,000



Summary

Is the advertisement false?

Is the advertisement deceptive?

Is the advertisement misleading?

Is the advertisement unfair?



FTC Resources

Advertising FAQ's: A Guide for Small Business

www.business.ftc.gov/documents/bus35-advertising-faqs-guide-small-business

Big Print. Little Print. What's the Deal?

www.business.ftc.gov/documents/bus44-big-print-little-print-whats-deal

Internet Advertising Of Disclosures

www.business.ftc.gov/documents/bus41-dot-com-disclosures-information-about-online-advertising

Advertising Consumer Leases

www.business.ftc.gov/documents/bus18-advertising-consumer-leases



Texas Laws and Regulations

Texas Statutes

www.statutes.legis.state.tx.us

Texas Administrative Code

[Texas Administrative Code Title 43 Transportation Part 10 Texas Department of Motor Vehicles Chapter 215 Motor Vehicle Distribution Subchapter H Advertising](#)



Filing a Complaint

On www.TxDMV.gov, scroll to the bottom of the home page and click “File a Complaint”.

Upload supporting evidence, capture the URL in the screenshots and the entire webpage for each vehicle, note the date of each screenshot.

Do not mark on any advertisements submitted with your complaint.

Advertisements that have been altered cannot be used as evidence.





THANK YOU FOR ATTENDING



**Best of Luck With
Your Business**