

Proposed Changes to OMVC Rules for 2010-2011 Rulemaking Process

Chapter 10 Subchapter 3. License Identification and Changes

465:10-3-3(e). Salespersons' license

Change of employment. A licensed Salesperson shall, on change of employment, surrender the Salesperson's License Certificate to the new employer, who shall submit the License along with the appropriate Transfer form and fee to the Commission for ~~endorsement~~ issuance of a replacement License reflecting the change of employers.

465:10-3-4. Changes to be reported

Any proposed change of ~~of~~ by a dealer, manufacturer, or distributor, including but not limited to: name, dealership address, ownership or franchises sold by the Dealer, shall be submitted to the Commission, in writing, along with the appropriate documentation. Sufficient advance notice shall be given for the Commission to act in accordance with the applicable statutes and rules.

Chapter 15 Subchapter 1. Advertising – General Provisions

465:15-1-2. Definitions

“Clear and Conspicuous” means that the statement, representation, or disclosure is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning. In print and internet advertisements, disclosures shall be located either adjacent to the price or in an area clearly marked with reference symbols. In audio advertisements, disclosures shall be clear and understandable in pace and volume and shall be located at the end of the advertisement. ~~This standard shall be met by the following:~~

(A) ~~In a print advertisement:~~

- ~~(i) The type size of 5 ½ caps or larger shall be used in all disclosures.~~
- ~~(ii) Disclosures shall be located adjacent to the price or in an area clearly marked with reference symbols. All reference symbol marks, such as asterisks, must be type size 5 ½ caps or larger.~~

(B) ~~In an audio advertisement:~~

- ~~(i) The disclosure shall be clear and understandable in pace and volume; and,~~
- ~~(ii) The disclosure shall be placed at the end of the advertisement.~~

(C) ~~In a television advertisement:~~

- ~~(i) The disclosure shall be in visual form so that the average viewer can easily read and understand it.~~
- ~~(ii) The disclosure size shall be at least twenty (20) scan lines and each disclosure shall appear continuously on the screen at least ten (10) seconds.~~

“Dealer-added fee” means an amount charged by the dealer to the customer in connection with the sale or lease of a new motor vehicle including, but not limited to, processing fee, documentary fee, service and handling fee, administrative fee, closing fee, or ADP (additional dealer profit) fee. “Dealer-added fee” does not mean legally required charges such as a lien entry filing fee. It is prohibited to state or imply that a dealer-added fee is required by law or by any government agency.

“Demonstrator” means those vehicles that are of the current or previous model year which have not been sold, titled or registered to any type of purchaser and are used by dealership personnel for demonstration purposes. Service vehicles, courtesy cars, daily rentals, loaners, factory program cars, driver education and factory executive cars shall not be described as “demonstrator” vehicles. Demonstrators may be advertised for sale, as such, only by a franchised dealer of the same line-make of vehicle.

Chapter 15 Subchapter 3. Specific Advertising Regulations

465:15-3-2. Availability of vehicles

(a) **Specific advertising.** A licensee may advertise a price, payment, or savings claim for a specific vehicle or line-make of vehicles for sale if:

(1) the specific vehicle or line is in the possession of the licensee at the time the advertisement is placed, or the vehicle may be obtained from the manufacturer or distributor or some other source, and this information is disclosed in the advertisement; and,

(2) the advertisement ~~sets forth the~~ discloses the number of vehicles available ~~or for the~~ advertised price or savings. This requirement shall be met by the following:

(a) if the advertisement advertised price or savings claim pertains to only one specific vehicle, then the advertisement must disclose that vehicle’s stock number must be disclosed; or,

(b) if the advertised price or savings claim pertains to multiple vehicles, the disclosure must contain either the number of vehicles available or verbiage such as “many available” or “several to choose from”.

465:15-3-7. Dealer price advertising

(a) **Selling price.** The most conspicuous price or payment of a new motor vehicle, when advertised by a dealer, must be the full and total selling price for which the dealer will sell the vehicle to any retail buyer. The only charges that may be excluded from the advertised price or payment are: taxes, title, and license fees.

- ~~(1) state and local taxes,~~
- ~~(2) license, and~~
- ~~(3) title.~~

465:15-3-8. Identification

- (a) When the price, payment or savings claim of a vehicle is advertised, the following must be conspicuously disclosed adjacent to the price, payment, or savings claim:
- (1) model year;
 - (2) make;
 - (3) ~~trade~~ model name, ~~brand~~ or style name; and
 - (4) if ~~other than a new vehicle~~, the advertised vehicle had been in prior service as a demonstrator, service loaner, factory program vehicle, or any other similar use, it must be identified as such. ~~a used, demonstrator, or a factory executive/official vehicle, or a factory program vehicle.~~
- (b) An illustration of a motor vehicle used in an advertisement must be ~~that of either~~ either the actual motor vehicle advertised. ~~If an illustration of the advertised vehicle is not available then the dealer must clearly and conspicuously disclose the difference between the illustration and the vehicle being advertised~~ or a vehicle of the same make, model, year, and style.

~~465:15-3-9. Demonstrators, executives and officials vehicles~~

~~If a demonstrator or factory executive/official vehicle is advertised, the advertisement must so disclose~~

(This is redundant, so it is not needed)

465:15-3-14. Prohibited statements

The following statements are presumptively false and misleading, and the burden of proving otherwise shall be on the Advertiser/Licensee:

- (1) Statements such as "everybody financed", "no credit rejected", "guaranteed approval", "you are pre-approved", and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit.
- ~~(2) Statements representing that no other dealer grants greater allowances for trade-ins, however stated, unless such is the case.~~
- (3) 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 such is the case.~~
- (4) Statements such as "factory direct prices", "wholesale prices", "factory sale", and other similar statements that create the impression that the vehicle is being offered for sale by the manufacturer or distributor of the vehicle, are prohibited. Dealers may use terms such as "factory authorized sale" only in conjunction with factory-sponsored promotions and/or advertising campaigns. Statements such as "we have been selected", "we have been chosen", and other similar statements, which imply that the dealership has exclusive arrangements not available to other dealers, are prohibited.

- (5) A savings claim or discount offer is prohibited except to advertise specific new or demonstrator vehicles. Statements such as "up to", "as much as", "from", shall not be used in connection with savings or discount claims, unless the vehicle for which the claim is made is clearly identified including stock number. Savings claims can only be offered from the bottom line MSRP sticker price. Discounts shown on the Monroney Sticker Label shall not be included in the advertised discount or savings claim. The featured savings claim or discount offer for a new motor vehicle, when advertised, must be the savings claim or discount which is available to any and all members of the buying public.
- (6) The use of the terms "Free", "Complimentary", or similar terminology is prohibited if a consumer must make a purchase to obtain the "free" offer.
- (7) The terms "dealer's cost", "invoice", "invoice price" or other reference to the cost of the vehicle to the dealer shall not be used.
- (8) No trade-in amount or range of amounts shall be ~~advertised~~ stated or implied in an advertisement, including comparisons or references to industry valuation guides.
- (9) A used vehicle shall not be advertised in any manner that creates the impression it is new.
- (10) Statements such as "we pay tag, tax and license", or statements with similar meaning shall not be used.
- (11) The use of the terms "liquidation", "going out of business", or statements with similar meaning, are prohibited unless a dealer is actually going out of business and ceasing its operations at the licensed location. If a dealer is going out of business, these terms can only be advertised during the period between the execution of a buy-sell with the proposed buyer and written factory approval.
- (12) An offer of a buy down rate is prohibited without the appropriate disclaimer: "This is a buy down rate. The amount of the buy down may affect the price of the vehicle".
- (13) Terminology such as "we will pay off your trade ~~no matter how much you owe~~" or statements with similar meaning shall not be used, unless accompanied by a disclaimer indicating which clearly and conspicuously states that the amount of the pay off amount is added into the contract and is dependent upon approved credit.
- (14) Statements such as "we will make your payments for a number of months", "you make no payments for a number of months", or similar statements are prohibited unless the finance contract is written as such and the customer is not obligated for payments to the finance company for that specified period of time.

465:15-3-15. Dealership name

All advertisements must conspicuously display the name of the new motor vehicle dealership.