

WAC 308-66-152 Unlawful practices. (1) Examples of unlawful acts or practices, as defined by RCW 46.70.180 (1)(a), include, but are not limited to representations such as "no down payment," "a dollar down," "five dollars down," "take-over payments," "no cash out of your pocket," "no cash needed," and others of similar nature if either secondary financing or initial payment of any amount, including factory rebates in excess of that represented, is required from the purchaser. A dealer's plan to have all or a portion of the lease or selling price financed by a third party does not relieve the dealer of an obligation to refrain from this prohibited type of advertising. When any of these representations are made a payment disclosure shall be made as contained in subsection (6) of this section.

(2) Examples of unlawful acts or practices as defined by RCW 46.70.180 (1)(b), include, but are not limited to representations such as "one hundred percent financing" if the terms of the purchase or lease involve more than one security agreement and payments to more than one financing institution. When collateral in addition to the vehicle is required, it must be listed on the security agreement containing the vehicle's description, not on a separate agreement.

(3) It shall be considered false, deceptive or misleading, and thereby unlawful, to advertise with words, phrases, or initials which are not clear and conspicuous and easily comprehended by persons other than those closely allied with the vehicle industry.

(a) Clear and conspicuous within an advertisement shall mean:

(i) In the case of a television advertisement, the information required to be disclosed shall be completely disclosed audibly, visually, or a combination thereof.

(A) If made visually, shall be made in a type size sufficiently large to be read with reasonable ease; shall appear on the television screen for at least seven seconds; shall be in print type of a color or shade that contrasts readily with the background; shall not be obscured by other words or images appearing on the television screen; and

(B) If made audibly, shall be spoken with sufficient deliberateness, clarity, and volume so as to be understood by the average television listener; shall not be obscured by sounds which interfere with or distract from the disclosures being made.

(ii) In the case of a radio advertisement, the information required to be disclosed shall be spoken with sufficient deliberateness, clarity, and volume so as to be understood by the average radio listener; shall not be obscured by sounds which interfere with or distract from the disclosures being made.

(iii) In the case of a printed advertisement, the information required to be disclosed shall be made in a type size which shall be sufficiently large to be read with reasonable ease and shall be made in relatively close proximity to each of the terms which require that the disclosures be made; disclosures shall be made in such color and contrast so as not to be obscured by other words or pictures appearing in the advertisement.

(b) Examples of words, phrases, or initials which are not easily comprehended by persons other than those closely allied with the vehicle industry, and that may not be used without explaining their meaning in the same advertisement, include but are not limited to: Executive; capitalized cost reduction, o.a.c., c.f., f.o.b. The words annual percentage rate may be abbreviated to read A.P.R. or apr.

(4) Examples of false, deceptive or misleading, and thereby unlawful statements or representations within the meaning of RCW 46.70.180(1) include, but are not limited to:

(a) Advertising a used vehicle for sale that is not available at the time the advertisement is placed;

(b) Advertising a new vehicle as available for immediate delivery if it is available only on order;

(c) Advertising any offer in connection with the sale of a vehicle or model or type of vehicle without disclosing any material limitations, including, but not limited to, the time limit, or that there is no time limit on the offer;

(d) Advertising using a picture:

(i) Of a new vehicle which does not substantially show the same vehicle offered for sale; or

(ii) Of a used vehicle which is not the same vehicle offered for sale;

(e) Causing an advertisement to be placed by a dealer or dealer representative that does not identify the dealer by its complete business name, or by the word "dealer" or abbreviation "DLR";

(f) Incorporating in the dealer's name any term or designation which would have a tendency to mislead others as to the true nature of the business, such as the use of "wholesale," when a dealer's business is substantially retail, or "discount" when the price and policy of a dealer does not provide substantial discounts;

(g) Advertising a vehicle manufactured fewer than two years prior to the date of the advertisement without designating the vehicle as "used," "demo," or "demonstrator." For purposes of adequate disclosure, the appropriate quoted term must be employed. Other descriptive words, such as "executive," "lease," or "rental" may be used in conjunction therewith, but not so as to create ambiguity as to whether the vehicle is new, used, or a demonstrator.

(h) Advertising a "rebuilt vehicle" for sale with knowledge as defined in RCW 46.70.101 (1)(b)(xi) that the vehicle is rebuilt, without clearly and conspicuously disclosing "rebuilt" in the advertisement;

(i) Advertising a specific price for a specific vehicle or model or type of vehicle without designating the number of vehicles available at that price, and;

(i) Without clearly identifying the vehicles available by complete vehicle identification number, license plate number; or

(ii) Without clearly and conspicuously stating in the advertisement that such vehicle identification or license plate number for each advertised vehicle is available from the dealer upon request, and requiring that the dealer using this method of identifying vehicles keep the media advertising copy along with the vehicle identification number or license plate number of each advertised vehicle offered for a specific price. Such records shall be retained for one year following the advertisement. Dealers shall also date and post a written copy of the advertisement text and list of vehicle identification numbers or license plate numbers in a conspicuous public area at their place of business for the duration of the vehicle's availability at the advertised price: Provided, however, That a dealer need not designate the number of vehicles available or identify the vehicles available or state in the advertisement that the identification of advertised vehicles is available upon request if, in fact, an unlimited supply of such vehicles are available for immediate delivery;

- (j) Selling a particular vehicle at a higher price than advertised, regardless of trade-in allowance;
- (k) Adding charges, costs, or items to the advertised price, except those allowed by statute, other than the selling price of additional equipment ordered by the purchaser, sales tax, and license fees. "Additional equipment ordered by the purchaser" shall not include options already installed on the vehicle at the time of advertising;
- (l) Expressing "advertised price" as a combination of:
- (i) Dollar figures and words unless all component figures and the total dollar figure is expressed; or
- (ii) Dollar figures and dollar figures unless all component figures and the total dollar figure is expressed;
- (m) Advertising that a new vehicle or model or type of vehicle will be leased or sold for a certain amount above or below invoice or cost without:
- (i) Disclosing the actual dollar amount being referred to as "invoice";
- (ii) Stating the final, total price for each vehicle, which may exclude sales taxes and license fees; and
- (iii) Computing invoice as the actual cost to the dealer to get each vehicle from the manufacturer.
- In computing "invoice" the dealer may include the actual cost of transportation of the vehicle from the manufacturer to the dealer, but must exclude dealer holdbacks, other manufacturer incentives, optional advertising fees, dealer overhead expenses, and other similar expenses;
- (n) Advertising that a new or used vehicle is reduced in price from a former price, or that the advertised price is a percentage of dollar amount savings from a former price, or words to that effect, unless the seller actually recently advertised or has records showing that vehicle has been offered for sale at the former price;
- (o) Advertising or offering:
- (i) Any rebate that is not payable to the consumer, which the consumer may apply to the purchase;
- (ii) Any rebate that requires any financial participation by the dealer, without also clearly and conspicuously stating the following disclosure: "Dealer participation in this rebate program may increase vehicle price before rebate";
- (iii) Any rebate without clearly and conspicuously stating the specific vehicle(s) or model(s) to which the rebate applies and all material limitations on and conditions of the rebate;
- (iv) Multiple rebates that are applicable to the same vehicle(s) or model(s) but are not available in combination in any manner that implies that the rebates are available in combination, such as by adding them together;
- (v) Any rebate other than a rebate offered by the dealer's franchise manufacturer or a financial institution that is affiliated by ownership or agreement with the dealer's franchise manufacturer;
- (vi) A sum total of multiple rebates or a vehicle price that incorporates any rebate, unless each incorporated rebate meets the following requirements:
- (A) For a rebate offered by a dealer's franchise manufacturer, more than fifty percent of individuals who acquired vehicles in the state of Washington from the manufacturer's franchise dealers in the preceding twelve months would have qualified for the rebate; and

(B) For a rebate offered by a financial institution that is affiliated by ownership or agreement with the dealer's manufacturer, more than fifty percent of individuals in the state of Washington who applied in the preceding twelve months to the financial institution for financing for the acquisition of a vehicle produced by the franchise manufacturer would have qualified for the rebate.

(p) Advertising that "any written price quote will be beaten," "any deal will be accepted," or that a dollar amount is guaranteed on any "push, pull or drag," trade-in, or words to that effect unless the dealer can clearly show through the records of the dealership that such is the case;

(q) Advertising a vehicle or model or type of vehicle as being available at "lowest cost," "best deal" or other words to that effect unless the dealer can clearly show through the records of the dealership that such is the case;

(r) Advertising an interest rate that is adjustable without clearly and conspicuously disclosing that the interest rate is adjustable;

(s) Advertising a vehicle or model or type of vehicle for sale at a financing rate which has been bought down by the dealer, without disclosing the actual annual percentage rate.

(5) No advertisement to aid, promote, or assist directly or indirectly any extension of credit may state:

(a) That a specific amount of credit or installment amount can be arranged unless the creditor usually and customarily arranges or will arrange credit amounts or installments for that period and in that amount; or

(b) That no down payment or that a specified down payment will be accepted in connection with any extension of credit unless the creditor usually and customarily accepts or will accept down payment in that amount.

(6) No advertisement to aid, promote, or assist directly or indirectly any credit sale of a vehicle shall state the amount or percentage of the down payment required, or that no down payment is required, the amount of any payment or the number of payments or the period of repayment, the amount of any finance charge or that there is no charge for credit, unless it states clearly and conspicuously all of the following terms:

(a) The cash price or the amount of the loan as applicable;

(b) The amount or percentage of the down payment required, or that no down payment is required, as applicable;

(c) The number, amount, and frequency of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate;

(e) The deferred payment price or the sum of the payments as applicable;

(f) The specific model or type of vehicle(s) to which the advertised offer applies; and

(g) Any other conditions material to the advertised offer.

(7) Any advertisement to aid, promote, or assist directly or indirectly a consumer lease must state clearly that the advertisement offers a lease rather than a vehicle sale.

(8) No advertisement to aid, promote, or assist directly or indirectly any consumer lease of a vehicle shall state the amount of any monthly payment, or state a capitalized cost reduction or other pay-

ment required prior to or at consummation/delivery, unless it also states the following terms:

- (a) That the transaction advertised is a lease;
- (b) The total amount due prior to or at consummation/delivery;
- (c) The number, amount, and due dates or period of scheduled payments under the lease;
- (d) A statement of whether or not a security deposit is required; and
- (e) A disclosure of the lessee's liability at the end of an open-end lease.

[Statutory Authority: RCW 46.70.160. WSR 15-16-125, § 308-66-152, filed 8/5/15, effective 9/5/15; WSR 04-16-090, § 308-66-152, filed 8/3/04, effective 9/3/04; WSR 98-20-039, § 308-66-152, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 46.70.180 and 46.70.160. WSR 91-03-019, § 308-66-152, filed 1/7/91, effective 2/7/91. Statutory Authority: RCW 46.70.160 - 46.70.180. WSR 90-20-086, § 308-66-152, filed 9/28/90, effective 10/29/90.]