



Auto Informer

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Issue 06

WE HAVE A NEW NAME

The Governor's Office of Consumer Affairs has changed its name to the Governor's Office of Consumer Protection. Because our office is a law enforcement agency charged with enforcing the Fair Business Practices Act, the name change more accurately reflects this agency's role in law enforcement. In conjunction with our name change, we have also launched a new website available at www.consumer.ga.gov. If you accessed our site in the past, please be aware that links and bookmarks to the old site may no longer be available or may have been moved within the site.

The Office of Consumer Protection enforces the Georgia Fair Business Practices Act (FBPA) which prohibits unfair and deceptive acts and practices within the context of consumer transactions. OCP's mission is to protect consumers and businesses from unlawful, deceptive and unfair practices in the marketplace by enforcing the laws we administer and through education.

In carrying out our mission, we are guided by the following core values:

Integrity. Individuals making ethical choices which earn and maintain the public trust.

Public Service. Passion for what we do; Compassion for those we serve.

Fairness. Uncompromising commitment to the even-handed and uniform administration of justice.

Excellence. Continually challenging ourselves to maximize our effectiveness and impact.

OCP published the *Auto Advertising and Sales Practices Enforcement Policies*. This policy handbook is intended to further explain the FBPA's application to automobile advertising and sales.

odds of winning

Odds of Winning and Verifiable Retail Value

Promotional advertisements, or those that announce sweepstakes, giveaways or prizes, must be accompanied by certain information to comply with the FBPA. Though there are numerous requirements (all of which are found in the AAEP handbook) the odds of winning and the verifiable retail value are two important conditions that are often listed incorrectly.

- You must list the verifiable retail value and odds of winning in close proximity to each listing of the prize.
- **Verifiable retail value** is:
 - the retail price, if the prize is not sold at retail, **or**
 - no more than three times the price paid by the promoter or sponsor for the prize.
- The **odds of winning** may be presented as the ratio of the total number of a particular prize to the number of notices distributed. For example, if 1 prize is available and 300 notices or mailers are distributed, then the odds of winning may be listed as 1/300.
- If giving away gift cards or other items in an "up to" amount, the odds of winning must be listed for each increment being offered in the advertisement.

Please refer to the FBPA and the AAEP for a detailed discussion of the requirements for promotional advertisements.



Advertising "No Sales Tax"

No retailer may advertise directly or indirectly that it will pay or assume sales tax for the consumer. Violation of this statute is both a misdemeanor and an infraction of the Fair Business Practices Act. Remember, the consumer is responsible for paying all sales tax.

This Month's Common Violation

Discounts on Used Cars

Advertising discounts on vehicle prices is common among automobile dealerships. Be aware, however, that advertised discounts that are permissible for new vehicles may be prohibited when referring to used vehicles.

DO NOT compare a used car to its MSRP or its "original price".

DO include the edition and pricing category when using a reference book such as the Kelley Blue Book.

DO ensure that the vehicle being advertised has the same features and mileage as the vehicle being referenced.

DO use the most recent edition of the reference book.



Requirements for the Resale of Reacquired Vehicles

DO YOU KNOW THE DISCLOSURE REQUIREMENTS REGARDING THE RESALE OF A REACQUIRED VEHICLE?

O.C.G.A Section 10-1-782(21) of the Georgia Lemon Law defines a "reacquired vehicle" as a new motor vehicle with an alleged nonconformity that has been replaced or repurchased by the manufacturer. This replacement or repurchasing may be the result of any court order or judgment, arbitration decision, voluntary settlement entered into between a manufacturer and the consumer, or voluntary settlement between a new motor vehicle dealer and a consumer in which the manufacturer directly or indirectly participated.

Sale of a vehicle reacquired under the Georgia Lemon Law, or under a similar statute of another state, requires the use of the "Georgia Lemon Law Notice for Reacquired Vehicles". Parts I and II of the notice are completed by the vehicle's manufacturer. The notice is then shown to the *prospective* consumer *before* the sale is consummated. It is essential that the consumer be aware of the vehicle's history prior to making the purchase. At the time of sale, the

To view the full-sized notice, click on this link:
<http://www.files.georgia.gov/OCP/Files/Reacquired%20Vehicle%20Notice.pdf>
f Failure to provide the notice to the consumer at the time of sale is a violation of the Fair Business Practices Act (FBPA). The violator is subject to both a civil penalty of up to \$2,000 and a FBPA private right of action.

GEORGIA LEMON LAW NOTICE FOR REACQUISITION VEHICLES

(For vehicles reacquired on or after January 1, 2009 — See reverse side for Statute completion and compliance instructions)

PART I: TO BE COMPLETED BY THE MANUFACTURER FOLLOWING REACQUISITION OF THE VEHICLE

Vehicle Make: _____ Model: _____ Year: _____ Current

Mileage: _____

VIN: / _____ Date of Vehicle

Reacquisition: _____

Previous Title #: _____ State: _____ Name of Original

Consumer: _____

Address of Original

Consumer: _____

This vehicle was reacquired by the manufacturer from the original consumer as a result of:

Part I-A Check one category and one box within that category for a reacquired vehicle covered under Georgia's Lemon Law:

_____ A voluntary agreement entered into between the consumer and the ☐ manufacturer (or ☐ dealer with the manufacturer's assistance) prior to filing for arbitration or bringing a legal action in Georgia.

_____ A ☐ settlement reached through or a ☐ decision rendered by: _____ (Name of Informal Dispute Settlement Mechanism (IDSM) for Georgia)

_____ A ☐ settlement reached through or a ☐ decision rendered by the Georgia New Motor Vehicle Arbitration Panel.

_____ A ☐ settlement reached through or a ☐ decision rendered by a Georgia Court.

Part I-B Check this category and applicable box only if vehicle was reacquired under a similar statute of another state and was transferred into Georgia:

_____ A ☐ voluntary agreement entered into without arbitration or a legal action, or a ☐ settlement reached through or a ☐ decision rendered by: _____, under a similar statute of the state of: _____

(Name of IDSM Arbitration Program/Court)

This vehicle was reacquired because it was alleged or determined to have one or more of the following nonconformities:

Name and Title of Manufacturer's Representative (print)

Date: _____

Signature of Manufacturer's Representative

PART II: TO BE COMPLETED BY THE MANUFACTURER UPON TRANSFER OF THE VEHICLE

This vehicle was transferred by the manufacturer on (Date) _____ to (Name of Transferee): _____

(Address of Transferee)

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☐ Check this box if vehicle is being sold for scrap. _____

Disclosure / Disclaimer Placement

All disclaimers must be "clear and conspicuous" and easily readable. Any type size 10 point font or larger is considered to be easily readable, but it may be necessary to increase the size depending on the type of advertisement. For example, size 10 point font will be insufficient on a billboard. Also, remember to be aware of color contrasts or font that may render disclaimers less legible.

When advertising Truth in Lending or Consumer Leasing Act "trigger terms", all required terms must be in immediate proximity to the trigger term. Consumers should not have to search for terms and conditions at the bottom of the page or the opposite side of an advertisement. Please refer to the AAEP for a discussion of "trigger terms" and the disclosures that must accompany them.



Advertising Price Plus Fees



Advertised prices must state the actual total purchase price of the vehicle, excluding only tax, tag, title and Lemon Law fees (previously Warranty Rights Act fees). Additional fees, such as documentary, lot, processing, administrative, and all similar charges must be incorporated into the advertised price of the vehicle. Only those fees collected by or on behalf of the government may be excluded.

Trivia Questions!

Q: Is it acceptable to advertise "we'll pay off your trade no matter what you owe"?

A: NO.

This statement is not permissible because it implies that the consumers will not bear any cost for the balances due on their trade-ins when this is not the case.

Q: Can a "going out of business sale" continue until everything on the lot is sold?

A: NO.

It is unlawful to conduct a "going out of business sale," or other form of distress sale, for more than 90 days. After the 90 days, it shall be unfair and deceptive to continue to do business in any manner contrary to any representations which were made regarding the nature of the going out of business sale.



OCP Ad Review

As a courtesy to dealers and marketing companies, our office will review advertisements prior to publication. This office will not officially approve proposed advertisements. Rather, we will review advertisements prior to dissemination and identify those areas we consider problematic.

All ads must be submitted directly to Lauren Villnow, the Compliance Investigator at The Office of Consumer Protection. She will review your ads within 2 business days.

For ad review or any advertising questions, please contact Lauren Villnow at 404-656-4481 or lauren.villnow@ocp.ga.gov. Proposed advertisements can be submitted via email to Lauren or fax to 404-463-8212.

