

Title 30: Professions and Occupations
Part 1301: Administrative Regulations for the Mississippi Motor Vehicle Commission.
Part 1301 Chapter 4: Vehicle Advertising

Rule 4.1 Rules on Advertising.

The objective of Rule 4 is to implement the intent of the legislature by providing the regulation of the advertising by licensed new motor vehicle dealers, manufacturers, and distributors, in the interest of furthering truthful and accurate advertising practices for the benefit of the citizens of the State of Mississippi. Rule 4 intended to apply to any written, visual or oral communication to a consumer by any personal representation newspaper advertisement, magazine advertisement, circular, billboard advertisement, direct mailing, sign, radio or television advertisement, telephone solicitation, internet, email electronic or other form of communication.

All advertising shall be in compliance with the Federal Trade Commission's Regulations "M" (Lease Regulation) and "Z" (Truth in Lending Act).

Rule 4.2. Specific Rules:

- A. Employee Pricing: A dealer may not advertise they are selling vehicles at employee pricing unless it is a manufacturer's program.

- B. Bait Advertising: "Bait" advertising is an unfair and deceptive practice and shall not be used by any Licensee. Bait advertising is an alluring but sincere offer to sell a product, the primary purpose of which is to obtain leads to persons interested in buying merchandise of the type advertised and 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. Advertising a new motor vehicle at a price which does not include all equipment listed as standard equipment by the manufacturer or distributor without disclosing such fact, or eliminating any such equipment for the purpose of advertising a low price and "baiting" the customer into changes above the advertised price is prohibited as misleading and deceptive.

- C. Availability of Vehicles:
 - 1. A dealer may advertise a specific new or used motor vehicle or line-make of vehicles for sale if the specific motor vehicle or line-make is in the possession of the dealer at the advertised address or available to be shipped to the dealer by the manufacturer or distributor from the manufacturer's or distributor's inventory within a reasonable time, and willingly shown and sold as advertised, illustrated, or described at the advertised price and terms. When advertising motor vehicles

located at a dealership(s) under common ownership, the specific location should be clearly and conspicuously disclosed.

2. If the specific motor vehicle or line-make is not in the possession of the dealer at the time the advertisement is placed, the dealer shall clearly and conspicuously disclose that fact in the advertisement and state that the motor vehicle may be obtained from the manufacturer, distributor, or some other source, including dealership(s) under common ownership. The advertisement shall set forth the number of motor vehicles available at the advertised price, if a price is advertised, at the time the advertisement is placed or the dealer can show that it has the number of motor vehicles available to meet the reasonable expectable public demand based on prior experience.
3. If an advertised price pertains to only one specific motor vehicle, then the advertisement shall also disclose the motor vehicle's stock number or VIN.
4. This section does not prohibit general advertising of motor vehicles by a manufacturer, dealer advertising association, or distributor, nor does it prohibit the inclusion of the names and addresses of the dealers authorized to sell such motor vehicles in the particular area.

D. Untrue Claims: The following statements shall not be used in any advertising by any dealer:

1. Statements such as "write your own deal", "name your own price", "name your own monthly payments", or statements with similar meaning.
2. Statements such as "everybody financed", "no credit rejected", "we finance anyone", "all applications accepted" and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit.
3. Statements representing that no other dealer grants greater allowances for trade-ins, however stated, unless such is the case and information is provided to the Commission before the ad is run.
4. 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 and information is provided to the Commission before the ad is run.

E. Inclusion in Price and Add-ons for Dealer Advertisements: When the price of a vehicle is advertised in a local medium, the vehicles shall be fully identified as to year, make, model, and if new, used, or lease. In addition, the stated price must include all charges which the customer must pay for the vehicle, including but not limited to, "freight" or "destination charges", "dealer preparation", "dealer handling", "additional dealer profit", "additional dealer margin", and "undercoating or rust proofing" if the vehicle is already so equipped. The advertised price need not include state and local taxes, tags, registration, title fees, and documentary/service fee.

Full disclosure shall be required and shall include:

- Year./make/model
- Stock number
- Down payment
- Monthly note
- APR
- Number of payments
- With approved credit
- Plus tax, title, and doc fee

F. Minimum Trade-in Allowances: Because the amount of trade-in allowance will vary depending on the condition, model, and age of a buyer's vehicle, no specific trade-in amount or range of amounts shall be used in advertising. In the event of a government sponsored trade-in program, the minimum trade-in amounts are allowed to be advertised.

G. Disclosure of Material Facts: Any disclosures about material facts which are contained in advertisements and which involve types of vehicles and transactions must be made in a clear and conspicuous manner to minimize the possibility of misunderstanding by the audience. Factors to be taken into consideration include, but are not limited to, ad layout, headlines, illustrations, type size, contrast, crawl speed, and editing. Commonly known abbreviations may be used in advertising; however, those not generally known shall be avoided.

H. Footnotes: An asterisk (or other characters) may be used to give additional information about a word or term; however, use of one or more footnotes or asterisks which, alone or in combination, contradict, confuse, materially modify or unreasonably limit a principal message of the ad shall not be used.

1. Used Vehicles - vehicles of the current and any preceding model year which are "used" shall be clearly identified as such.
2. Whenever any advertisement relates to a lease, the advertisement must make readily apparent (in the body of the ad and not the disclaimer) to the audience that the transaction advertised is a lease.
3. Credit Terms – when credit terms are advertised, they must comply with the specific disclosure requirements of the credit advertising provisions of the "Truth-in-Lending" Act and Regulation Z.
4. Lease Terms - when lease terms are advertised, they must comply with the specific disclosure requirements of the lease advertising provisions of the "Truth-in-Lending" Act and Regulation M.
5. Television Disclosures - any television advertisements must clearly feature all necessary information in a manner that can be read and understood.
6. Internet Disclosures – any internet advertisement may be considered compliant if:

- a) The viewer highlights, hover a mouse or cursor over, or otherwise selects certain text or images on a screen that results in an immediate and legible visible disclosure, or
 - b) Only one click or select text or image(s) is required to view the disclosure; and
 - c) The internet advertisement clearly and conspicuously indicates where to hover or click for the disclosure and is in close proximity to the information being disclosed.
- I. Disclosure in Invoice Ads: The terms "invoice", "factory invoice", "pay what we pay", "dealer invoice" or "dealer cost" shall not be used as a reference price (such as, but not limited to, \$100 over invoice or dealer cost).
- J. Discounts: When an automotive advertisement contains an offer of a discount on a new vehicle, the amount of such discount must be stated who is giving the discount by reference to the actual dollar figure to the manufacturer's suggested retail price of the vehicle. Discount must not imply the selling price to be below the dealer cost.
- K. Rebate Offers: The terms "rebate", "cash rebate", "cash incentives" or similar terms may be used only when it is clearly stated who is making the payment. Such advertisements must also state that "may affect final negotiated price" and customer has the option to determine how it is applied in the sale process. Rebates, cash rebates, cash incentives or similar terms must not imply the selling price to be below dealer cost.

When advertising an amount to be returned to the buyer, the buyer must be made aware that they have the option to determine how the dollar figure is to be used in the sale or lease.

- L. Free Offer for Dealer Advertisements: The word "Free" may be used in advertising whenever the advertiser is offering an unconditional gift. If receipt of the "free" merchandise or service furnished by the dealer is conditional on a purchase:
- 1. The normal price of the merchandise or service to be purchased must not have been increased nor its quantity or quality reduced. A "normal price" is not established if vehicles are usually sold at a price negotiated rather than an established regular (Normal) price;
 - 2. The advertiser must disclose this condition clearly and conspicuously together with the "free" offer (not by placing an asterisk or symbol next to "free" and referring to the condition(s) in a footnote); and
 - 3. The "Free" offer must be temporary; otherwise, it would become a continuous

combination offer, no part of which is free.

However, an advertiser shall be permitted to reference free merchandise or service(s) provided by the manufacturer or distributor as part of any official promotion or incentive program offered by the same.

- M. Buy-Down Interest Rates: No buy-down interest rate may be advertised if any of the costs of securing the buy-down are passed on to the customer in any way.
- N. List or Sticker Price: Where the words "list" or "sticker" or words of similar import are used in a new motor vehicle advertisement, they shall only refer to the actual dollar figure of the Manufacturer's Suggested Retail Price.
- O. Special Status of Dealership: An automotive advertisement shall not falsely imply that the dealer has a special sponsorship, approval status, affiliation, or connection with the manufacturer that is greater or more direct than any other like dealer. However, no dealer shall be prohibited from including in an automotive advertisement an accurate statement or reference that a dealership is the recipient of an award or recognition from the manufacturer or distributor.
- P. Claims of Under Selling: Any automotive advertisements which makes under selling claims shall be capable of being substantiated.
- Q. Price Equaling: An advertisement which expresses a policy of matching or bettering competitors' prices shall fully disclose any conditions which apply and specify what evidence a consumer must present to take advantage of the offer. Such evidence shall not place an unreasonable burden on the consumer such as producing a signed contract from another dealer or requiring the consumer to find a vehicle with such identical features that the possibility of doing so is highly unlikely. Any advertisement stating this policy or "guarantee" must show the terms in the actual ad.
- R. Addendum Stickers: Dealers may use addendum stickers when adding equipment to vehicles. However, when advertising a discount on a vehicle, the dealer must clearly disclose that the discount is based on the dealer addendum price and not the factory MSRP.

Example:	Dealership Price \$45,000
	Dealer Discount \$ 5,000
	Manufacturer MSRP \$40,000
	Discount \$ 2,000
	Rebate \$ 1,500

- S. Discount Ads: Ads showing a very low priced vehicle that has a disclaimer which says the price is after a sizable customer down payment (20% or more of MSRP for new vehicles or 20% or more of selling price on used vehicles) or trade equity shall be unlawful and deemed unacceptable. Factory lease ads are excluded from this regulation.

- T. Manufacturer's Suggested Retail Price: The suggested retail price dollar figure of a new motor vehicle when advertised by a manufacturer, distributor or regional ad association shall include all costs and charges for the vehicle advertised, except that destination, and state and local taxes, title, and license fees may be excluded from such price, provided that the advertisement conspicuously states that such costs and charges are excluded. However, with respect to advertisements placed with media in Mississippi by a dealer, such price must include all costs and charges for the vehicle advertised including destination charges, and may exclude only state and local taxes, license, title fees, insurance, and doc fees.

- U. Lease, Balloon or Residual Advertisements: Vehicle lease advertisements shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle, the balloon or residual note amount that is due at expiration of the lease, and the customer has the option to buy the vehicle at the pre-determined price, or turn vehicle in.

- V. Consolidated Loans: Credit terms which purport to consolidate other bills with new car financing, shall not be advertised.

- W. Van Conversion Advertisements: In the case of a modified vehicle, such as a converted van, the dealer may advertise using the conversion firms name and refer to the chassis manufacturer, but in no case shall the dealer advertise vans solely by a chassis manufacturers name unless enfranchised to sell that make of vehicle.

- X. Demonstrators, Executives, Officials, and Program Vehicles: The word "Demonstrator" shall be understood to refer to a vehicle which has never been sold or leased to a member of the public. This term shall include vehicles used by new motor vehicle dealers or their personnel for demonstrating performance ability but not vehicles purchased and used as their personal vehicles. "Demonstrators" may be advertised for sale as such only by a dealer franchised for the sale of such make of new vehicles. "Executives", "Officials" or "Program Vehicles", when so advertised, shall have been used exclusively by executives of the dealer's franchising manufacturer or distributor, or by any executive of the franchised dealership. These vehicles, so advertised, shall not have been sold or leased to a member of the public prior to the appearance of the advertisement. "Demonstrators", "Executives", and "Officials" vehicles shall be clearly and prominently qualified as such

in immediate conjunction with year, make, and model offered.

- Y. Auction: Terms such as "Auction" or "Auction Special" and other terms of similar import shall be used in connection with vehicles offered or sold at a bona fide auction and auctioneer license number given.
- Z. Layout – Type Size: The layout, headlines, illustrations, or type size of a printed advertisement, including billboards, and the broadcast words or pictures of radio/TV/Internet advertisements shall not convey or permit an erroneous or misleading impression as to which vehicle or vehicles are offered at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in-allowance, cash difference, savings or other such material terms shall be misleading and any necessary qualifications shall be clearly, conspicuously, and accurately set forth to prevent misunderstanding. For purposes of these regulations, qualifying terms and phrases will be considered to be clearly, conspicuously, and accurately set forth if they are:
1. In bold print and type of such size that is capable of being read without unreasonable extra effort
 2. Expressed in terms that are understandable to the buying public
 3. In close proximity to the qualified representation and not separated or buried in a footnote. See 4.2.H. Footnotes.
- AA. Billboard Advertising: Billboards shall not contain pricing information other than the Manufacturer's Suggested Retail Price. APR financing is not considered part of pricing information for this rule.
- BB. Liquidation Sale: Use of terms "Liquidation Sale", "Public Notice", "Public Sale" or similar terms used to connote or imply a court ordered or other forced liquidation of assets shall not be advertised, unless such is the case.
- CC. Changes in Monthly Payments: Changes in monthly payments are not allowed. Payments may not go up during contract term and all payments must be split-up equally for the length of contract. (Exception: National manufacturer and/or distributor plan)
- DD. Alternate Payment Terms: If payments are not based on traditional monthly method, (i.e. bi-weekly, weekly, etc.) it must be disclosed as such in same size font as shown price and not referenced by use of asterisk, character, and/or footnote.
- EE. Deferred Payments: No advertisement shall offer to defer the first payment on a credit sale or lease beyond the historic and accepted 45 day selective maturity date unless such advertised states with equal prominence the fact that the purchaser's own money or equity

will be used in implementing such deferred payment plan (i.e. 90 days until first payment) (Exception: National manufacturer and/or distributor payment plan)

FF. Conditional Pricing, Net Pricing, Payment and Eligibility Disclosures. The most prominent reference to an advertised price or savings must be one available to all customers without condition.

The most prominent reference to an advertised monthly finance or lease payment must be the amount calculated from the vehicle price available to all customers without condition other than being creditworthy and entering into the finance or lease transaction.

The prominent price or savings may reflect rebates and discounts available to all consumers (e.g., factory cash, dealer discount), but must not reflect “conditional” rebates and discounts available only to some consumers, including (but not limited to) college grad, military, conquest, loyalty, trade-in bonuses, and finance bonuses except as described below.

A finance bonus (incentive) may be reflected in the prominent price or savings if all of the following apply:

1. The advertised vehicle is new;
2. The incentive is offered for installment sales financing – not lease financing;
3. The incentive is offered by a motor vehicle manufacturer or its recognized retail finance subsidiary (verses at the dealership level);
4. The incentive is generally available to consumers of average creditworthiness;
5. The finance incentive savings amount is separately slated and clearly distinguishable from non-conditional incentives and savings; and
6. The requirement to finance and an available Annual Percentage Rate (APR) is clearly and conspicuously disclosed in immediate conjunction with the prominent price or savings.

The prominent monthly finance or lease payment may reflect finance incentives associated with the credit or lease offer (e.g. manufacturer / dealer finance bonus, lease cash), but must not reflect other conditional rebates and discounts referenced above (e.g., college grad, loyalty).

If referencing conditional discounts or presenting a “secondary” price available only by qualifying for conditional discounts, all essential requirements must be clearly and conspicuously disclosed in immediate conjunction with the secondary price or conditional discount. The disclosure must be made in a manner and with sufficient detail for a reasonable consumer to determine his or her eligibility for that price or discount. The secondary price must not be more prominent than the price available to all consumers. Conditional or net pricing shall not include deducting federal tax credits or

other government subsidies or incentives. Conditional or net pricing shall not include other “savings.”

Source: *Miss. Code Ann. § 63-17-69 (Rev.1983)*.

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