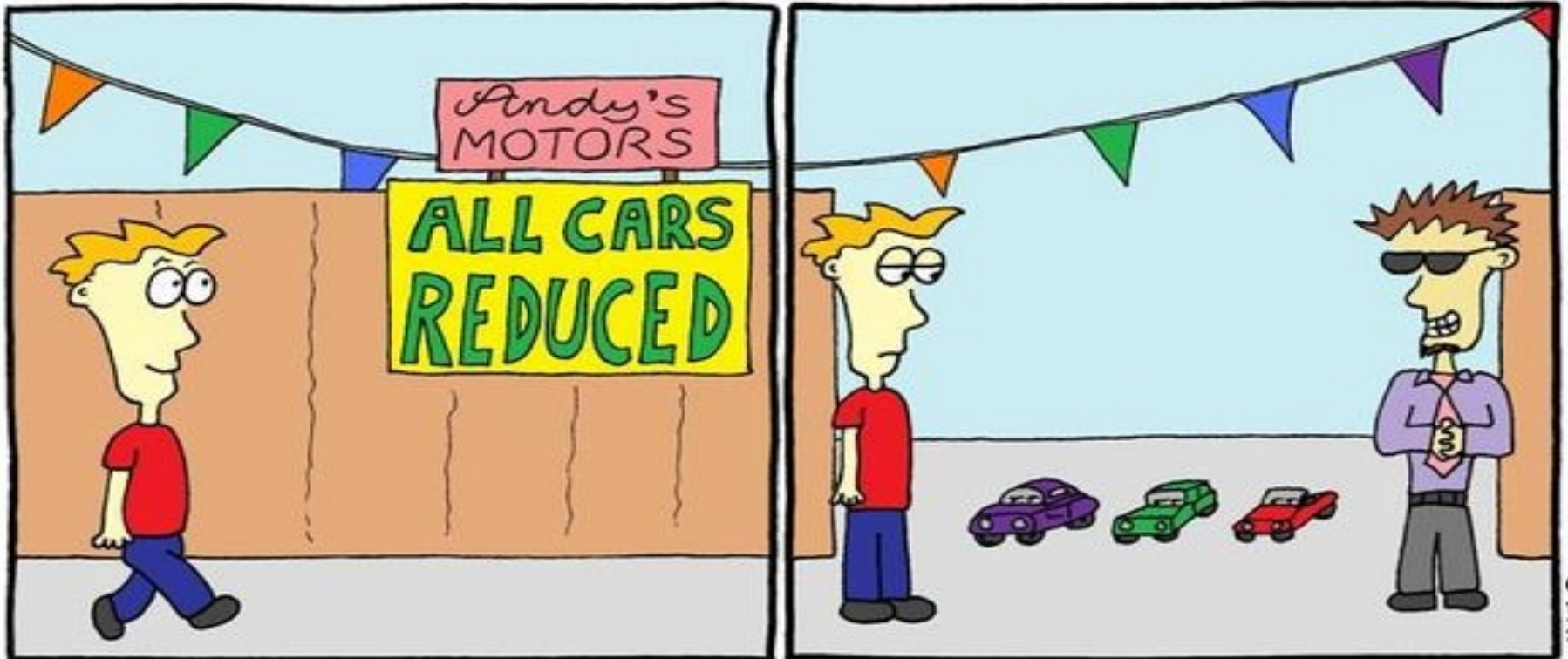




Texas Department of Motor Vehicles

ADVERTISING



How to Contact Us

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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, BROKERING
- 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
- § 215.247 - 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 Vehicles
- § 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.

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](https://www.ftc.gov/complaint).

FEDERAL TRADE COMMISSION REGULATIONS

[HTTPS://WWW.FTC.GOV/ENFORCEMENT](https://www.ftc.gov/enforcement)

**On Every New
Cory Fairbanks Model!**

GIFT CARD

2014 Wednesday



**TEST DRIVE A MAZDA TODAY AND GET A FREE GIFT CARD
CENTRAL FLORIDA'S USED CAR SUPERCENTER**

CENTRAL FLORIDA'S BEST CAR SUPERSTATION

 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999
 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999
 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999
Saturday 9am Used Cars \$99 and lower too				
 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999	 2006 DODGE STRATUS 150,000 miles \$12,999
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Nobody Ever Beats a COPY CARBONK'S MAZDA DEAL. NOBODY.



13



mazda

Cory Fairbanks Mazda

Call 1-877-700-9790

Shop On Line! BigMazda.com

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

Hablamos
Español

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.



All of 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.

Availability

- 1 -

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.

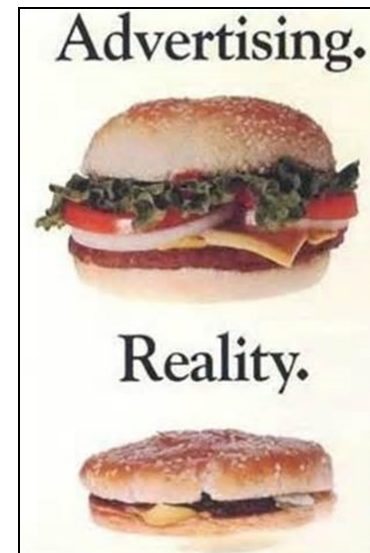
Accuracy

- 2 -

Accuracy

43 TEX. ADMIN. CODE § 215.246

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



Untrue Claims

- 3 -

Untrue Claims

The following statements are prohibited:

- Write Your Own Deal
- Name Your Own Price
- Name Your Own Monthly Payments
- Credit Problems-No Problem
- 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.

Savings Claims / Discounts



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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

Used 2013 Ford F-250 SuperDuty King Ranch



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. Residency restrictions apply. Certain discounts require financing with FACC (with approved credit) or Trading in a 1995 model or newer vehicle towards purchase. Manufacturer may change rebates without prior notice. Please check dealer for actual pricing, availability, and to confirm eligibility of each vehicle for Select Rebate Programs. Not responsible for typographical errors. *Price not valid for Commercial/Fleet sales. Contact dealer for full details.

Savings Claims/Discounts

IMPROPER AD:

Limited rebate included in featured savings calculation



**2020 GMC Sierra,
Stock #12345**

**\$12,500
OFF MSRP**

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.

Savings Claims/Discounts

NON FACTORY-AVAILABLE DEALER ADD-ONS

PROPER FORMAT:

New 2020 Chevrolet Silverado 1500,
stock #1234

MSRP/DSRP	\$57,500
DEALER ADDED OPTIONS	\$1,200
MANUF REBATE	<u>-\$1,000</u>
(Rebate available to everybody)	
SALES PRICE/FEATURED	\$57,700



\$57,700

**NO DEALER DISCOUNT CAN BE ADVERTISED WHEN CHARGING FOR DEALER
ADDED OPTIONS**

Dealer Price Advertising



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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

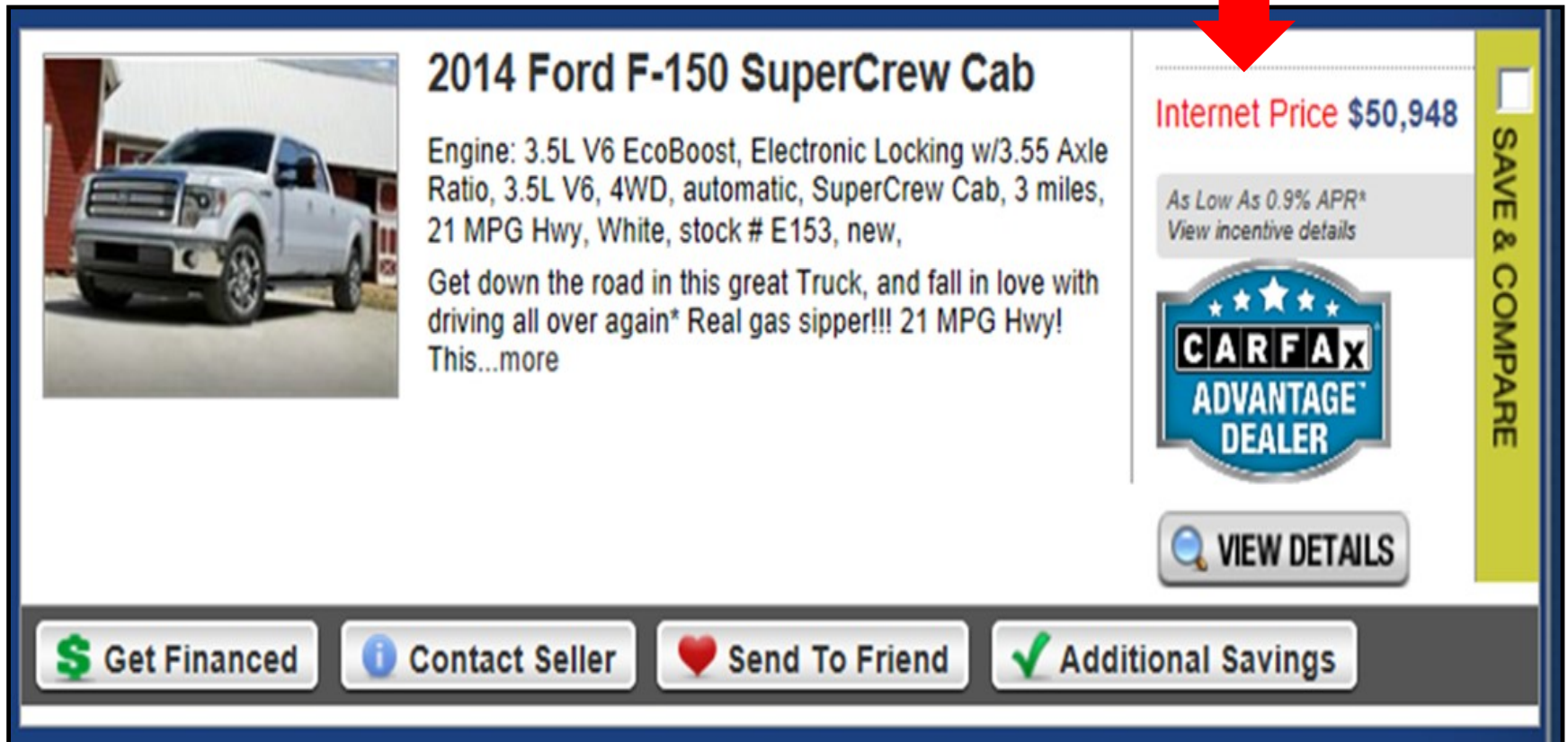
Internet Pricing

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 **i 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 2020 GMC Sierra 1500, Stk.
#1288

MSRP/DSRP	\$42,215
Dealer Discount	<u>-\$1,000</u>
Sale Price	\$41,215

\$41,215



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 2020 Dodge Charger, Stk.
#1588

MSRP/DSRP \$42,215

Less Rebate - \$1,750

(Rebate available to all buyers)

Sale Price \$40,465

\$40,465



Dealer Price Advertising

REBATE & 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

2020 Toyota Tundra, Stk. #1888

MSRP/DSRP	\$42,215
Less Rebate	-\$1,750
(Rebate available to all buyers)	
Less Dealer Discount	<u>-\$500</u>
Sale Price	\$39,965



\$39,965

Dealer Price Advertising

MANUFACTURER DISCOUNT ON PACKAGE OF OPTIONS

In the event that 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 2020 GMC Sierra 1500, Stk. #1288

Total Vehicle Price Plus Options \$44,215

Option Package Discount - \$2,000

MSRP/DSRP \$42,215

Less Rebate - \$1,750

(Rebate available to all buyers)

Less Dealer Discount - \$2,000

Sale Price \$38,465



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 2020 Nissan Titan, Stock #1888

MSRP/DSRP \$40,200

Rebate (available to all buyers) -\$2,000

Dealer Discount - \$1,000

Sale Price \$37,200



\$37,200

Extra \$500 NMAC cash available only if you qualify & finance through NMAC.

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 2020 GMC Terrain, Stock #1388	
MSRP	\$29,665
Purchase Bonus Cash	-\$1,000
Customer Cash	-\$500
Dealer Discount	-\$2,000
Sale Price	\$26,165

Conditional Rebates:

GMF Down Payment Assist.	-\$1,000
GM Conquest	-\$1,000



\$26,165

Dealer Price Advertising

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: \$500

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 Teaches 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 Price Advertising

WHEN MANUFACTURER DELIVERY & HANDLING CHARGE IS NOT INCLUDED IN THE MSRP

PROPER EXAMPLE:

**New 2020 CHEVROLET CORVETTE,
STK. #X4040**

MSRP/DSRP	\$56,000
MANUF DELIVERY & HANDLING	<u>\$880</u>
TOTAL PRICE	\$56,880
MANUF REBATE	-\$2,000
(Rebate available to all buyers)	
DEALER DISCOUNT	<u>-\$2,000</u>
SALES PRICE/FEATURED	\$52,880

\$52,880



Additional LIMITED Rebates Can Be
Added Below Featured Price

Identification of Vehicle Offered for Sale



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Identification of Vehicle Offered for Sale

IMPROPER AD:

When advertising a vehicle price

- Fully Equipped
- Loaded
- Factory Equipped



Price: \$14,820

2013 FIESTA SE SEDAN

LOADED WITH LOTS OF EXTRAS ←

WAS \$18,385

NOW \$14,820

HURRY IN...SALE ENDS JAN 16!

2013 Ford Fiesta SE
Ext. Color: Blue Candy Metallic
Int. Color: Light Stone
Engine: 4 Cyl.
Transmission: Manual
Stock#: 132758

36636367

*All advertised prices exclude government fees (registration, title, license), taxes, finance charges, and dealer doc fees. Subject to prior sale. Excludes restrictions apply. Certain discounts require financing with FMS (with approved credit) or Trading in a 1995 model or newer vehicle towards purchase. Manufacturer may change rebates without prior notice. Please check dealer for actual pricing, availability, and to confirm eligibility of each vehicle for Select Rebate Programs. Not responsible for typographical errors. *Price not valid for Commercial/Fleet sales. Contact dealer for full details.

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.

Trade-In Allowance



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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



OLD CAR EXCHANGE

Get at least
\$4,200 MORE
for your trade
GUARANTEED

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 KBB pin wheel chart depicting several different prices is okay as long as it takes you off of dealers 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?

Financing Disclosures



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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 + TTL

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...

Trigger 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



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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



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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 in order 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.

Other Topics



LEASING
BROKERING

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 of the 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 of the 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 of the 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).

Brokering

43 TEX. ADMIN. CODE § 215.84/85

New Referral Fee Option for Independent Dealers

* Brokering was previously prohibited. TxDMV Board adopted a new rule that allows independent motor vehicle dealers to offer a referral fee in cash or value to a customer who purchased a vehicle from the dealer within the past four (4) years.

* The referral fee may be contingent upon the new referred individual purchasing a vehicle, or a fee may be paid for the referral of a new potential customer.

* The referral fee agreement may NOT be used for financing as part of an original retail installment contract agreement transaction.

Brokering, Continued

New Referral Fee Option for Independent Dealers

The rule does NOT extend the option to offer a referral fee to:

- * a franchised motor vehicle dealer
- * a wholesale motor vehicle dealer
- * a motorcycle dealer
- * a house trailer dealer
- * a trailer or semitrailer dealer; or
- * an independent mobility motor vehicle dealer

This new referral fee option is **ONLY** for independent motor vehicle dealers

Enforcement Action on Complaints

- **HOW MANY?**

- 2013 – 471
- 2014 - 471
- 2015 - 508
- 2016 – 462
- 2017 - 309
- 2018 – 308
- 2019 - 260

- **SOURCE OF COMPLAINTS**

- **ALL 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 of MSRP/DSRP in lieu of a specific dollar amount off of 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 2020 Vehicle 25% off MSRP/DSRP!

MSRP/DSRP	\$20,000
Dealer Discount	\$3,000
Manufacturer's Rebate	\$2,000
Sales Price	\$15,000

Summary

IS THE ADVERTISEMENT FALSE?

IS THE ADVERTISEMENT DECEPTIVE?

IS THE ADVERTISEMENT MISLEADING?

IS THE ADVERTISEMENT UNFAIR?

FTC Links

- Advertising FAQ's: A Guide for Small Business
<http://www.business.ftc.gov/documents/bus35-advertising-faqs-guide-small-business>
- Big Print. Little Print. What's the Deal?
<http://www.business.ftc.gov/documents/bus44-big-print-little-print-whats-deal>
- Internet advertising of disclosures
<http://www.business.ftc.gov/documents/bus41-dot-com-disclosures-information-about-online-advertising>
- Advertising Consumer Leases
<http://www.business.ftc.gov/documents/bus18-advertising-consumer-leases>

Texas Laws and Regulations

Texas Statutes

<http://www.statutes.legis.state.tx.us/>

Texas Administrative Code

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=43&pt=10&ch=215&sch=H&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=43&pt=10&ch=215&sch=H&rl=Y)

Advertising & Other Dealer Rules

Filing a Complaint

- <http://www.txdmv.gov>
- Click 'Motorists' at the top left
- Navigate to 'Complaints Against Dealers'
- Select 'Motor Vehicle Dealer Online Complaint System'

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 evidence₈₁



Questions ?



Texas Department *of* Motor Vehicles

THANK YOU FOR ATTENDING



**BEST OF LUCK
WITH YOUR
BUSINESS**