

CS FOR HOUSE BILL NO. 272(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/12/03

Referred: State Affairs

Sponsor(s): REPRESENTATIVE WEYHRAUCH

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to motor vehicle dealers."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 08.66.015 is amended to read:

4 **Sec. 08.66.015. Sale of motor vehicle.** (a) A person who does business as a
5 dealer in the state may not offer to sell or sell a motor vehicle as a new [OR
6 CURRENT MODEL] motor vehicle unless the motor vehicle retains the
7 manufacturer's certificate of origin.

8 (b) A person who does business as a dealer in the state may not offer to sell or
9 sell a motor vehicle as a [NEW OR] current model motor vehicle [HAVING A
10 MANUFACTURER'S WARRANTY] unless

11 (1) the dealer has a current sales and service agreement with the
12 manufacturer [AND THE AGREEMENT REQUIRES THE DEALER, UPON
13 DEMAND OF THE MOTOR VEHICLE BUYER, TO PERFORM OR ARRANGE
14 FOR, WITHIN A REASONABLE DISTANCE OF THE DEALER'S PLACE OF
15 BUSINESS IN THE STATE, THE REPAIR AND REPLACEMENT WORK

1 REQUIRED OF THE MANUFACTURER UNDER THE WARRANTY]; [OR]

2 (2) the vehicle is a current model used vehicle received as a trade-
 3 in in the normal course [DEALER OFFERS TO GIVE THE BUYER A REBATE
 4 TO COVER THE REPAIR AND REPLACEMENT WORK THAT THE DEALER
 5 CANNOT PERFORM OR ARRANGE FOR WITHIN A REASONABLE
 6 DISTANCE OF THE DEALER'S PLACE] of business;

7 (3) the vehicle has been purchased directly from a consumer for
 8 purposes of resale; or

9 (4) the vehicle has been in service with a bona fide rental fleet for
 10 at least six months.

11 * **Sec. 2.** AS 45.25.400(b) is amended to read:

12 (b) A motor vehicle dealer may use the term "manufacturer's suggested retail
 13 price," "MSRP," or "list price" in an advertisement for the sale of a motor vehicle,
 14 subject to the restriction on price comparisons in AS 45.25.450 and the following:

15 (1) the advertised price must reference the final price listed by the
 16 manufacturer on the monroney sticker, including accessories and options physically
 17 attached to the vehicle at the time of delivery to the dealer, plus any transportation
 18 charges, and minus all manufacturer discounts and savings;

19 (2) the manufacturer's suggested retail price or the list price does not
 20 include charges added by the dealer or options added to the vehicle by the dealer; and

21 (3) whenever using the term "manufacturer's suggested retail price,"
 22 "MSRP," or "list price," the dealer [SHALL PROVIDE IN THE ADVERTISEMENT
 23 A CLEAR AND CONSPICUOUS DISCLOSURE THAT STATES THAT A SALE]
 24 may not represent that a savings occurs at a lower [HAVE OCCURRED AT
 25 THAT] price.

26 * **Sec. 3.** AS 45.25.410 is amended to read:

27 **Sec. 45.25.410. Availability of advertised items.** A motor vehicle dealer
 28 may not advertise a new motor vehicle [VEHICLES AND RELATED GOODS OR
 29 SERVICES] at a specified dealer price with the intent not to supply reasonably
 30 expected demand, unless the advertisement discloses the number of vehicles in stock
 31 at the advertised price.

1 * **Sec. 4.** AS 45.25.460(a) is amended to read:

2 (a) In addition to the provisions of AS 45.50.471 and regulations adopted
3 under AS 45.50.471, a motor vehicle dealer [MAY NOT]

4 (1) **shall include in** [EXCLUDE FROM] an advertisement of a motor
5 vehicle for sale **all** [THAT TAXES, IF APPLICABLE, VEHICLE REGISTRATION
6 FEES, FINANCE CHARGES, CHARGES FOR THE ISSUANCE OF ANY
7 CERTIFICATE OF COMPLIANCE OR NONCOMPLIANCE REQUIRED BY
8 STATUTE, OR OTHER] fees or charges, **except fees or charges** to be paid to a third
9 party [THAT ARE NOT OTHERWISE INCLUDED IN THE ADVERTISED PRICE
10 WILL BE ADDED TO THE ADVERTISED PRICE AT THE TIME OF THE SALE];

11 (2) **may not** represent the dealer document preparation fee as a
12 government fee;

13 (3) **may not** advertise a specific motor vehicle for sale without
14 identifying the vehicle by either its vehicle identification number, vehicle stocking
15 number, or license number;

16 (4) **may not** advertise that free merchandise, gifts, or services will be
17 provided by the dealer if a vehicle is purchased; in this paragraph, "free" includes
18 merchandise or services offered for sale at a price less than the dealer's cost for the
19 merchandise or services;

20 (5) **may not** use the term "rebate," "cash back," or a similar term in
21 advertising the sale of a motor vehicle unless the rebate is expressed in a specific
22 dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor
23 directly to the retail buyer of the vehicle;

24 (6) **may not** require a person, in order to receive the advertised credit
25 terms, to pay a higher price for a motor vehicle and any related goods or services than
26 the cash price the same person would have to pay to purchase the same vehicle and
27 related goods or services;

28 (7) **may not** advertise a guaranteed trade-in allowance or range of
29 allowances unless the guarantee is provided by the manufacturer or distributor;

30 (8) **may not** affix to a new motor vehicle a supplemental price sticker
31 containing a price that represents the dealer's asking price if the supplemental price

1 sticker exceeds the manufacturer's suggested retail price, unless the supplemental
2 sticker

3 (A) clearly and conspicuously, in the largest print appearing on
4 the sticker other than the print size used for the dealer's name, discloses that
5 the supplemental sticker price is the dealer's asking price, or words of similar
6 meaning, and is not the manufacturer's suggested retail price;

7 (B) clearly and conspicuously discloses the manufacturer's
8 suggested retail price; and

9 (C) states, if the supplemental sticker price is greater than the
10 sum of the manufacturer's suggested retail price and the price of the items
11 added by the dealer, the difference and describes it as additional dealer mark-
12 up;

13 (9) **may not** advertise or otherwise represent, or knowingly allow to be
14 advertised or represented on behalf of the dealer, that a down payment is not required
15 in connection with the sale of a motor vehicle when a down payment is in fact
16 required;

17 (10) **may not** advertise an offer for the sale, lease, or purchase of a
18 motor vehicle that [CREATES THE FALSE IMPRESSION THAT THE VEHICLE IS
19 BEING OFFERED BY A PRIVATE PARTY OR A MOTOR VEHICLE AGENT OR
20 THAT] does not contain the name of the dealer;

21 (11) [USE AN ADVERTISEMENT FOR A MOTOR VEHICLE
22 THAT CONTAINS LANGUAGE THAT FALSELY, IMPLICITLY, OR
23 EXPLICITLY SUGGESTS THAT, TO TAKE ADVANTAGE OF AN OFFER, A
24 CONSUMER MUST ACT WITHIN A CERTAIN PERIOD OF TIME WHEN, IN
25 FACT, THE VEHICLES WILL CONTINUE TO BE AVAILABLE AT THE
26 ADVERTISED PRICE BEYOND THAT TIME PERIOD;

27 (12) REQUIRE A BUYER OF A NEW MOTOR VEHICLE, AS A
28 CONDITION OF SALE AND DELIVERY, TO ALSO PURCHASE SPECIAL
29 FEATURES, APPLIANCES, ACCESSORIES, OR EQUIPMENT NOT DESIRED
30 OR REQUESTED BY THE BUYER UNLESS THE SPECIAL FEATURES,
31 APPLIANCES, EQUIPMENT, OR ACCESSORIES ARE ALREADY INSTALLED

1 ON THE VEHICLE WHEN RECEIVED BY THE DEALER;

2 (13)] **may not** represent and sell as a new motor vehicle a
3 demonstrator vehicle or a motor vehicle that is a used motor vehicle; in this paragraph,
4 "demonstrator vehicle"

5 (A) means a motor vehicle

6 (i) that has been assigned by a dealer for use by the
7 dealership as an executive vehicle for promotional purposes, including
8 being driven in the community;

9 (ii) that has not been licensed by a retail buyer; and

10 (iii) the title of which has not been transferred to a retail
11 buyer;

12 (B) does not include a motor vehicle that has only been driven
13 to demonstrate the motor vehicle to a prospective buyer;

14 **(12) may not** [(14)] advertise that the dealer finances any person or
15 does not reject any person's credit, or make similar claims;

16 **(13) may not** [(15)] advertise or make a statement, declaration, or
17 representation in an advertisement that cannot be substantiated in fact; the burden of
18 proof of the factual basis for the statement, declaration, or representation is on the
19 dealer.

20 * **Sec. 5.** AS 45.25.510(a) is amended to read:

21 (a) Before entering into a new motor vehicle sales contract, a new motor
22 vehicle dealer shall disclose in writing to a buyer of the new motor vehicle any known
23 damage and repair to the new motor vehicle if the damage exceeds five percent of the
24 manufacturer's suggested retail price as calculated at the dealer's authorized warranty
25 rate for labor and parts, **or \$1,000, whichever amount is greater.** A new motor
26 vehicle dealer is not required to disclose to a buyer that glass, tires, bumpers, or
27 cosmetic parts of a new motor vehicle were damaged at any time if the damaged item
28 has been replaced with original or comparable equipment. A replaced part is not part
29 of the cumulative damage required to be disclosed under this subsection.

30 * **Sec. 6.** AS 45.25.610(c) is amended to read:

31 (c) **If** [NOTWITHSTANDING THE REQUIREMENTS OF THIS SECTION,

1 IF] a motor vehicle dealer arranges financing for a buyer, the motor vehicle dealer
 2 may deliver the motor vehicle to the buyer before final approval by the financing
 3 entity if

4 (1) the buyer and seller sign an agreement separate from the motor
 5 vehicle installment contract on an 8 1/2 x 11 inch sheet of paper that clearly and
 6 conspicuously informs the buyer that final financing arrangements have not yet been
 7 approved and that clearly sets out the amount that will be financed, the annual
 8 percentage rate of the finance charge, the amount of the finance charge, the number
 9 and frequency of payments, and the amount of each payment;

10 (2) the separate agreement clearly and conspicuously informs the
 11 buyer that accepting delivery of the vehicle before final financing approval obligates
 12 the buyer to terms of the motor vehicle sales contract if the terms on the separate
 13 agreement are identical to the terms finally approved by the financing entity; and

14 (3) the separate agreement provides that the separate agreement, the
 15 motor vehicle sales contract, and any and all other conditions of the purchase will be
 16 void if any of the terms contained in the separate agreement are changed by either the
 17 motor vehicle dealer or the financing institution as a condition of sale or final
 18 financing approval.

19 * **Sec. 7.** AS 45.25.610(d) is amended to read:

20 (d) If a buyer's final financing is not approved [WITHIN SEVEN BUSINESS
 21 DAYS FROM THE DATE OF THE SEPARATE AGREEMENT] and, as a result, the
 22 transaction is not completed, the motor vehicle dealer shall return the buyer's entire
 23 down payment, and the buyer's trade-in, if any, shall be returned to the buyer in the
 24 same condition and with not more than **100** [10] miles accumulated on the odometer
 25 from when the motor vehicle was delivered to the motor vehicle dealer.

26 * **Sec. 8.** AS 45.25.460(b) and 45.25.610(b) are repealed.