

**CS FOR HOUSE BILL NO. 272(STA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 5/17/03

Referred: Today's Calendar

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  
9 sell or sell a motor vehicle as a [NEW OR] current model motor vehicle **only if**  
10 [HAVING A 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 in the  
 8 United States for purposes of resale;

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

11 (5) the vehicle is a current model used vehicle that has been leased  
 12 by a consumer and has been returned to the leasing dealer;

13 (6) the vehicle has been repossessed; or

14 (7) the vehicle was purchased at an auction and meets the  
 15 requirements of (2), (3), (4), (5), or (6) of this subsection.

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

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

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

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

26 (3) whenever using the term "manufacturer's suggested retail price,"  
 27 "MSRP," or "list price," the dealer [SHALL PROVIDE IN THE ADVERTISEMENT  
 28 A CLEAR AND CONSPICUOUS DISCLOSURE THAT STATES THAT A SALE]  
 29 may not represent that a buyer would save money by paying a [HAVE  
 30 OCCURRED AT THAT] price that is lower than the "manufacturer's suggested  
 31 retail price," "MSRP," or "list price".

1 \* **Sec. 3.** AS 45.25.410 is amended to read:

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

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

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

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

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

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

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

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

30                   (6) **may not** require a person, in order to receive the advertised credit  
31 terms, to pay a higher price for a motor vehicle and any related goods or services than

1 the cash price the same person would have to pay to purchase the same vehicle and  
2 related goods or services;

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

5 (8) **may not** affix to a new motor vehicle a supplemental price sticker  
6 containing a price that represents the dealer's asking price if the supplemental price  
7 sticker exceeds the manufacturer's suggested retail price, unless the supplemental  
8 sticker

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

13 (B) clearly and conspicuously discloses the manufacturer's  
14 suggested retail price; and

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

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

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

27 (11) **may not** [USE AN ADVERTISEMENT FOR A MOTOR  
28 VEHICLE THAT CONTAINS LANGUAGE THAT FALSELY, IMPLICITLY, OR  
29 EXPLICITLY SUGGESTS THAT, TO TAKE ADVANTAGE OF AN OFFER, A  
30 CONSUMER MUST ACT WITHIN A CERTAIN PERIOD OF TIME WHEN, IN  
31 FACT, THE VEHICLES WILL CONTINUE TO BE AVAILABLE AT THE

1 ADVERTISED PRICE BEYOND THAT TIME PERIOD;

2 (12) REQUIRE A BUYER OF A NEW MOTOR VEHICLE, AS A  
3 CONDITION OF SALE AND DELIVERY, TO ALSO PURCHASE SPECIAL  
4 FEATURES, APPLIANCES, ACCESSORIES, OR EQUIPMENT NOT DESIRED  
5 OR REQUESTED BY THE BUYER UNLESS THE SPECIAL FEATURES,  
6 APPLIANCES, EQUIPMENT, OR ACCESSORIES ARE ALREADY INSTALLED  
7 ON THE VEHICLE WHEN RECEIVED BY THE DEALER;

8 (13)] represent and sell as a new motor vehicle a demonstrator vehicle  
9 or a motor vehicle that is a used motor vehicle; in this paragraph, "demonstrator  
10 vehicle"

11 (A) means a motor vehicle

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

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

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

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

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

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

26 \* **Sec. 5.** AS 45.25.465 is amended by adding a new subsection to read:

27 (c) When a motor vehicle dealer sells a used motor vehicle or a current model  
28 used motor vehicle, the motor vehicle dealer shall disclose to the buyer in writing in a  
29 manner that is clear and conspicuous and posted in the window of the vehicle

30 (1) that the warranty provisions of AS 45.45.300 - 45.45.360 do not  
31 apply to the purchase of the motor vehicle;

1 (2) that, if applicable, the vehicle is not subject to a manufacturer's  
2 warranty; and

3 (3) that, if applicable, the vehicle was originally manufactured for sale  
4 in Canada or another foreign country.

5 \* **Sec. 6.** AS 45.25.510(a) is amended to read:

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

15 \* **Sec. 7.** AS 45.25 is amended by adding a new section to read:

16 **Sec. 45.25.530. Disclosure regarding receipt of commissions.** If a motor  
17 vehicle dealer's service operations employees receive a commission for the amount of  
18 work they perform, the motor vehicle dealer shall post a conspicuous sign that is  
19 visible to service customers that the dealer's service operations employees work on  
20 commission.

21 \* **Sec. 8.** AS 45.25.610(c) is amended to read:

22 (c) **If** [NOTWITHSTANDING THE REQUIREMENTS OF THIS SECTION,  
23 IF] a motor vehicle dealer arranges financing for a buyer, the motor vehicle dealer  
24 may deliver the motor vehicle to the buyer before final approval by the financing  
25 entity if

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

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

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

10 \* **Sec. 9.** AS 45.25.610(d) is amended to read:

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

17 \* **Sec. 10.** AS 45.25.460(b) and 45.25.610(b) are repealed.