

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Amended: 5/8/04

Offered: 5/5/04

Sponsor(s): REPRESENTATIVE WEYHRAUCH

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the advertising of motor vehicles, including trailers, for sale by**
2 **motor vehicle dealers; relating to the financing of motor vehicle purchases; relating to**
3 **motor vehicle sales contracts; relating to the disclosures required to be made by motor**
4 **vehicle dealers when selling motor vehicles, including trailers, or when their service**
5 **employees work on commission; relating to a motor vehicle dealer's selling as a new or**
6 **current model vehicle, a motor vehicle required to be registered under AS 28.10;**
7 **relating to a motor vehicle dealer's advertising an offer for the sale, lease, or purchase of**
8 **a motor vehicle, including a trailer; relating to a motor vehicle dealer's conditioning the**
9 **sale and delivery of a motor vehicle, including a trailer, on the buyer's purchase of other**
10 **items; and relating to the return of a buyer's trade-in by a motor vehicle dealer."**

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

12 *** Section 1.** AS 45.25.400(b) is amended to read:

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

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

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

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

16 * **Sec. 2.** AS 45.25.410 is amended to read:

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

22 * **Sec. 3.** AS 45.25.460(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

28 (B) clearly and conspicuously discloses the manufacturer's
29 suggested retail price; and

30 (C) states, if the supplemental sticker price is greater than the
31 sum of the manufacturer's suggested retail price and the price of the items

1 added by the dealer, the difference and describes it as additional dealer mark-
2 up;

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

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

11 (11) **may not** [USE AN ADVERTISEMENT FOR A MOTOR
12 VEHICLE THAT CONTAINS LANGUAGE THAT FALSELY, IMPLICITLY, OR
13 EXPLICITLY SUGGESTS THAT, TO TAKE ADVANTAGE OF AN OFFER, A
14 CONSUMER MUST ACT WITHIN A CERTAIN PERIOD OF TIME WHEN, IN
15 FACT, THE VEHICLES WILL CONTINUE TO BE AVAILABLE AT THE
16 ADVERTISED PRICE BEYOND THAT TIME PERIOD;

17 (12) REQUIRE A BUYER OF A NEW MOTOR VEHICLE, AS A
18 CONDITION OF SALE AND DELIVERY, TO ALSO PURCHASE SPECIAL
19 FEATURES, APPLIANCES, ACCESSORIES, OR EQUIPMENT NOT DESIRED
20 OR REQUESTED BY THE BUYER UNLESS THE SPECIAL FEATURES,
21 APPLIANCES, EQUIPMENT, OR ACCESSORIES ARE ALREADY INSTALLED
22 ON THE VEHICLE WHEN RECEIVED BY THE DEALER;

23 (13)] represent and sell as a new motor vehicle a demonstrator vehicle
24 or a motor vehicle that is a used motor vehicle; in this paragraph, "demonstrator
25 vehicle"

26 (A) means a motor vehicle

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

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

31 (iii) the title of which has not been transferred to a retail

1 buyer;

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

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

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

10 * **Sec. 4.** AS 45.25.465 is amended by adding a new subsection to read:

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

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

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

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

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 is amended by adding a new section to read:

31 **Sec. 45.25.530. Disclosure regarding receipt of commissions.** If a motor

1 vehicle dealer's service operations employees receive a commission for the amount of
 2 work they perform, the motor vehicle dealer shall post a conspicuous sign that is
 3 visible to service customers that the dealer's service operations employees work on
 4 commission.

5 * **Sec. 7.** AS 45.25.610(c) is amended to read:

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

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

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

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

25 * **Sec. 8.** AS 45.25.610(d) is amended to read:

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

1 * **Sec. 9.** AS 45.25.460(b) and 45.25.610(b) are repealed.

2 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 DEPARTMENT OF LAW REPORT. The Department of Law shall

5 (1) monitor and investigate consumer and enforcement problems associated
6 with AS 08.66.015 that relate to the sale by motor vehicle dealers of motor vehicles as new or
7 current model motor vehicles; and

8 (2) report to the Twenty-Fourth Alaska State Legislature on or before
9 January 24, 2005, on the consumer and enforcement problems monitored and investigated
10 under (1) of this section and include in the report recommendations for resolving the
11 problems.