

FIRST REGULAR SESSION

HOUSE BILL NO. 727

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE YATES.

Read 1st time March 8, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1959L.011

AN ACT

To repeal section 301.567, RSMo, and to enact in lieu thereof one new section relating to advertisements by automobile dealers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 301.567, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.567, to read as follows:

301.567. 1. For purposes of this section, a violation of any of the following advertising standards shall be deemed an attempt by the advertising dealer to obtain a fee or other compensation by fraud, deception or misrepresentation in violation of section 301.562:

(1) A motor vehicle shall not be advertised as new, either by express terms or implication, unless it is a "new motor vehicle" as defined in section 301.550;

(2) When advertising any motor vehicle which is not a new motor vehicle, such advertisement must expressly identify that the motor vehicle is a used motor vehicle by express use of the term "used", or by such other term as is commonly understood to mean that the vehicle is used;

(3) Any terms, conditions, and disclaimers relating to the advertised motor vehicle's price or financing options shall be stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information, but not be used as a means of contradicting or changing the meaning of an advertised statement;

(4) The expiration date, if any, of an advertised sale or vehicle price shall be clearly and conspicuously disclosed. In the absence of such disclosure, the advertised sale or vehicle price shall be deemed effective so long as such vehicles remain in the advertising dealership's

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 inventory;

18 (5) The terms "list price", "sticker price", or "suggested retail price" shall be used only
19 in reference to the manufacturer's suggested retail price for new motor vehicles, and, if used,
20 shall be accompanied by a clear and conspicuous disclosure that such terms represent the
21 "manufacturer's suggested retail price" of the advertised vehicle;

22 (6) Terms such as "at cost", "\$..... above cost" shall not be used in advertisements
23 because of the difficulty in determining a dealer's actual net cost at the time of the sale. Terms
24 such as "invoice price", "\$..... over invoice" may be used, provided that the invoice referred to
25 is the manufacturer's factory invoice for a new motor vehicle and the invoice is available for
26 customer inspection. For purposes of this section, "manufacturer's factory invoice" means that
27 document supplied by the manufacturer to the dealer listing the manufacturer's charge to the
28 dealer before any deduction for holdback, group advertising, factory incentives or rebates, or any
29 governmental charges;

30 (7) When the price or financing terms of a motor vehicle are advertised, the vehicle shall
31 be fully identified as to year, make, and model. In addition, in advertisements placed by
32 individual dealers and not line-make marketing groups, the advertised price or credit terms shall
33 include all charges which the buyer must pay to the dealer, except buyer-selected options and
34 state and local taxes. If a processing fee or freight or destination charges are not included in the
35 advertised price, the amount of any such processing fee and freight or destination charge must
36 be clearly and conspicuously disclosed within the advertisement;

37 (8) Advertisements which offer to match or better any competitors' prices shall not be
38 used;

39 (9) Advertisements of "dealer rebates" shall not be used, however, this shall not be
40 deemed to prohibit the advertising of manufacturer rebates, so long as all material terms of such
41 rebates are clearly and conspicuously disclosed;

42 (10) "Free", "at no cost" shall not be used if any purchase is required to qualify for the
43 "free" item, merchandise, or service;

44 (11) "Bait advertising", in which an advertiser may have no intention to sell at the prices
45 or terms advertised, shall not be used. Bait advertising shall include, but not be limited to, the
46 following examples:

47 (a) Not having available for sale the advertised motor vehicles at the advertised prices.
48 If a specific vehicle is advertised, the dealer shall be in possession of a reasonable supply of such
49 vehicles, and they shall be available at the advertised price. If the advertised vehicle is available
50 only in limited numbers or only by order, such limitations shall be stated in the advertisement;

51 (b) Advertising a motor vehicle at a specified price, including such terms as "as low as
52 \$.....", but having available for sale only vehicles equipped with dealer-added cost options

53 which increase the selling price above the advertised price;

54 (12) Any reference to monthly payments, down payments, or other reference to financing
55 or leasing information shall be accompanied by a clear and conspicuous disclosure of the
56 following:

57 (a) Whether the payment or other information relates to a financing or a lease
58 transaction;

59 (b) If the payment or other information relates to a financing transaction, the minimum
60 down payment, annual percentage interest rate, and number of payments necessary to obtain the
61 advertised payment amount must be disclosed, in addition to any special qualifications required
62 for obtaining the advertised terms including, but not limited to, "first-time buyer" discounts,
63 "college graduate" discounts, and a statement concerning whether the advertised terms are
64 subject to credit approval;

65 (c) If the payment or other information relates to a lease transaction, the total amount due
66 from the purchaser at signing with such costs broken down and identified by category, lease term
67 expressed in number of months, whether the lease is closed-end or open-end, and total cost to
68 the lessee over the lease term in dollars;

69 (13) Any advertisement which states or implies that the advertising dealer has a special
70 arrangement or relationship with the distributor or manufacturer, as compared to similarly
71 situated dealers, shall not be used;

72 (14) Any advertisement which, in the circumstances under which it is made or applied,
73 is false, deceptive, or misleading shall not be used;

74 (15) No abbreviations for industry words or phrases shall be used in any advertisement
75 unless such abbreviations are accompanied by the fully spelled or spoken words or phrases.

76 2. The requirements of this section shall apply regardless of whether a dealer advertises
77 by means of print, broadcast, or electronic media, or direct mail. **If the advertisement is by**
78 **means of a broadcast media, a dealer may provide the disclaimers and disclosures required**
79 **under subsection 1 of this section by reference to an Internet web page and toll free**
80 **telephone number containing the information required to be disclosed.**

81 3. Dealers shall clearly and conspicuously identify themselves in each advertisement by
82 use of a dealership name which complies with subsection 6 of section 301.560.