

TEXAS ADMINISTRATIVE CODE
TITLE 43. TRANSPORTATION
PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES
CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

Subchapter H. Advertising	<u>Page</u>
§ 215.241. Purpose and Scope	1
§ 215.242. General Prohibition	1
§ 215.243. Specific Rules	2
§ 215.244. Definitions	2
§ 215.245. Availability of Motor Vehicles	4
§ 215.246. Accuracy	4
§ 215.247. Untrue Claims	4
§ 215.248. Layout	5
§ 215.249. Manufacturer's/Distributor's Suggested Retail Price	5
§ 215.250. Dealer Price Advertising; Savings Claims; Discounts	5
§ 215.251. Identification	8
§ 215.252. Advertising at Cost or Invoice	9
§ 215.253. Trade-in Allowances	9
§ 215.254. Used Motor Vehicles	9
§ 215.255. Demonstrators and Factory Executive/Official Motor Vehicles	9
§ 215.256. Free Offers	9
§ 215.257. Authorized Dealer	9
§ 215.258. Manufacturer and Distributor Rebates	9
§ 215.259. Rebate and Financing Rate Advertising by Dealers	10
§ 215.260. Vehicle Lease Advertisements	10
§ 215.261. Manufacturer/Distributor Sales and Wholesale Prices	10
§ 215.263. Sales Payment Disclosures	11
§ 215.264. Payment Disclosure - Vehicle Lease	11
§ 215.265. Bait Advertisement	13
§ 215.266. Lowest Price Claims	13
§ 215.267. Fleet Prices	13
§ 215.268. Bankruptcy and Liquidation Sales	13
§ 215.269. Finding of Violation	13
§ 215.270. Enforcement	13
§ 215.271. Auction	14

§ 215.241. Purpose and Scope

This subchapter implements Occupations Code, Chapter 2301 by regulating the advertising of persons under the jurisdiction of the department by requiring truthful and accurate advertising practices for the benefit of the citizens of this state.

§ 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 department to be false, deceptive, or misleading,

whether herein described, shall be deemed a violation of Occupations Code, Chapter 2301 and shall also be considered a violation of this rule.

§ 215.243. Specific Rules

The violation of an advertising rule shall be considered by the department as a prima facie violation of Occupations Code, Chapter 2301.

§ 215.244. Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Advertisement--

(A) An oral, written, graphic, or pictorial statement or representation made in the course of soliciting business, including, but not limited to a statement or representation:

- (i) made in a newspaper, magazine, or other publication;
- (ii) contained in a notice, sign, poster, display, circular, pamphlet, or letter;
- (iii) aired on the radio;
- (iv) broadcast on the internet or television; or
- (v) streamed via an online service.

(B) Advertisement does not include direct communication between a person or person's representative and a prospective purchaser.

(2) Advertising provision--

(A) A provision of Occupations Code, Chapter 2301, relating to the regulation of advertising; or

(B) A rule relating to the regulation of advertising, adopted pursuant to the authority of Occupations Code, Chapter 2301.

(3) Bait advertisement--An alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain a lead to a person interested in buying or leasing merchandise of the type advertised and to switch a consumer from buying or leasing the advertised product in order to sell or lease some other product at a higher price or on a basis more advantageous to the dealer.

(4) Balloon payment--Any scheduled payment made as required by a consumer credit transaction that is more than twice as large as the average of all prior scheduled payments except the down payment.

(5) Clear and conspicuous--The statement, representation, or term being disclosed is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning.

(6) Dealership addendum--A form that is displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts, or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a motor vehicle for delivery to a buyer.

(A) The purpose of the addendum is to disclose:

- (i) that it is supplemental;
- (ii) any added feature, service, equipment, part, or accessory, including the retail price, charged and added by the dealership;

- (iii) any additional charge to the selling price such as additional dealership markup; and
- (iv) the total dealer selling price.

(B) The dealership addendum form shall not be deceptively similar in appearance to the Monroney label, as defined by paragraph (14) of this section.

(7) Demonstrator--A new motor vehicle that is currently in the inventory of the automobile dealership and used primarily for test drives by customers and for other purposes designated by the dealership.

(8) Disclosure--Required information that is clear, conspicuous, and accurate.

(9) Distributor Suggested Retail Price (DSRP)--means the total price shown on the Monroney Label as specified by sub-paragraph (D) of paragraph (14) of this section.

(10) Factory executive/official motor vehicle--A new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or their subsidiaries.

(11) License holder--Any person required to obtain a license from the department.

(12) Limited rebate--A rebate that is not available to every consumer purchasing or leasing a motor vehicle because qualification for receipt of the rebate is conditioned or restricted in some manner. A rebate conditioned or restricted to purchasers who are residents of the contiguous United States is not a limited rebate.

(13) Manufacturer's Suggested Retail Price (MSRP)--means the total price shown on the Monroney Label as specified by sub-paragraph (D) of paragraph (14) of this section.

(14) Monroney Label--The label required by the Automobile Information Disclosure Act, 15 U.S.C. §§1231 - 1233, to be affixed to the windshield or side window of certain new motor vehicles delivered to the dealer and that contains information about the motor vehicle, including, but not limited to:

- (A) the retail price of the motor vehicle suggested by the manufacturer or distributor, as applicable;
- (B) the retail delivered price suggested by the manufacturer or distributor, as applicable, for each accessory or item of optional equipment, physically attached to the motor vehicle at the time of its delivery to a dealer, which is not included within the price of the motor vehicle as stated in subparagraph (A) of this paragraph;
- (C) the amount charged, if any, to a dealer for the transportation of the motor vehicle to the location at which it is delivered to the dealer; and
- (D) the total of the amounts specified pursuant to subparagraphs (A), (B), and (C) of this paragraph.

(15) Online service--A network that connects computer users.

(16) Rebate or cash back--A sum of money applied to the purchase or lease of a motor vehicle or refunded after full payment has been rendered for the benefit of the purchaser.

(17) Savings claim or discount--An offer to sell or lease a motor vehicle at a reduced price, including, but not limited to, a manufacturer's or distributor's customer rebate, a dealer discount, or a limited rebate.

(18) Subsequent violation--Conduct that is the same or substantially the same as conduct the department has previously alleged in an earlier communication to be a violation of an advertising provision.

§ 215.245. Availability of Motor Vehicles

(a) A dealer may advertise a specific new motor vehicle or line-make of vehicles for sale if the specific motor vehicle or line-make is in the possession of the dealer at the time the advertisement is placed.

(b) If the specific motor vehicle or line-make is not in the possession of the dealer at the time the advertisement is placed, the dealer must clearly and conspicuously disclose that fact in the advertisement and state that the motor vehicle may be obtained from the manufacturer, distributor, or some other source. The advertisement must set forth the number of motor vehicles available at the advertised price, if a price is advertised, at the time the advertisement is placed or the dealer can show that it has the number of motor vehicles available to meet the reasonable expectable public demand based on prior experience.

(c) If an advertised price pertains to only one specific motor vehicle, then the advertisement must also disclose the motor vehicle's stock number or VIN.

(d) This section does not prohibit general advertising of motor vehicles by a manufacturer, dealer advertising association, or distributor, nor does it prohibit the inclusion of the names and addresses of the dealers selling such motor vehicles in the particular area.

(e) A motor vehicle dealer may advertise a specific used motor vehicle for sale if:

- (1) the specific used motor vehicle is in the possession of the dealer at the time the advertisement is placed; and
- (2) the title certificate to the used motor vehicle has been assigned to the dealer.

§ 215.246. Accuracy

Advertisements shall be accurate, clear, and conspicuous. Advertisements shall not be false, deceptive, or misleading. For an internet advertisement, a disclosure may be considered accurate, clear, and conspicuous if:

- (1) the viewer highlights, hovers a mouse or cursor over, or otherwise selects certain text or images on a screen that results in an immediate and legible visible disclosure; or
- (2) only one click on select text or image(s) is required to view the disclosure; and
- (3) the internet advertisement clearly and conspicuously indicates where to hover or click for the disclosure and is in close proximity to the information being disclosed.

§ 215.247. Untrue Claims

The following statements are prohibited.

- (1) Statements such as "write your own deal," "name your own price," "name your own monthly payments," or statements with similar meaning.
- (2) 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.
- (3) Statements representing that no other dealer grants greater allowances for trade-ins, however stated, unless the dealer can show such is the case.

- (4) Statements representing that because of its large sales volume, a dealer is able to purchase motor vehicles for less than another dealer selling the same make of motor vehicles, unless the dealer can show such is the case.

§ 215.248. Layout

The layout, headlines, illustrations, or type size of a printed advertisement, an internet advertisement or an advertisement streamed via an online service, and the broadcast words or pictures of radio and television advertisements shall not convey or permit an erroneous or misleading impression as to which motor vehicle or vehicles are offered for sale or lease at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in allowance, cash difference, savings, or other such material terms shall be misleading. Any necessary qualifications shall be clearly, conspicuously, and accurately set forth to prevent misunderstanding.

§ 215.249. Manufacturer's/Distributor's Suggested Retail Price

(a) Except as provided by subsection (b) of this section, the suggested retail price of a new motor vehicle advertised by a manufacturer or distributor shall include all costs and charges for the motor vehicle advertised.

(b) The following costs and charges may be excluded if an advertisement described in subsection (a) of this section clearly and conspicuously states the costs and charges are excluded:

- (1) destination and dealer preparation charges;
- (2) registration, certificate of title, license fees, or an additional registration fee, if any;
- (3) taxes; and
- (4) other fees or charges that are allowed or prescribed by law.

(c) Except as provided by this subsection, if the price of a motor vehicle is stated in an advertisement placed with local media in the State of Texas by a manufacturer or distributor and the names of the local dealers for the motor vehicles advertised are included in that advertisement, then the price must include all costs and charges for the motor vehicle advertised, including destination and dealer preparation charges. The only costs and charges that may be excluded from the price are:

- (1) registration, certificate of title, license fees, or an additional registration fee, if any;
- (2) taxes; and
- (3) other fees or charges that are allowed or prescribed by law.

§ 215.250. Dealer Price Advertising; Savings Claims; Discounts

(a) When featuring a sales price of a new or used motor vehicle in an advertisement, the dealer must be willing to sell the motor vehicle for that featured sales price to any retail buyer. The featured sales price shall be the price before the addition or subtraction of any other negotiated items. Destination and dealer preparation charges must be included in the featured sales price.

(b) The only costs and charges that may be excluded from the featured sales price are:

- (1) registration, certificate of title, or license fees;
- (2) taxes; and

- (3) other fees or charges that are allowed or prescribed by law.
- (c) A qualification may not be used when featuring a sales price for a motor vehicle such as "with trade," "with acceptable trade," "with dealer-arranged financing," "rebate assigned to dealer," or "with down payment."
- (d) 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 online or internet consumer or transaction is prohibited.
- (e) A savings claim or discount offer is prohibited except to advertise a new motor vehicle. No person may advertise a savings claim or discount offer on a used motor vehicle.
- (f) Statements such as "up to," "as much as," and "from" shall not be used by a dealer in connection with savings claims or discount offers.
- (g) The savings claim or discount offer for a new motor vehicle, when advertised by a dealer, must be the savings claim or discount available to any and all members of the buying public.
- (h) If an advertisement includes a savings claim or discount offer, the amount and type of each incentive that makes up the total amount of the savings claim or discount offer must be disclosed.

(1) If a savings claim or discount offer includes only a dealer discount, that incentive must be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable formats for advertising a dealer discount with and without a sales price.

Dealer Discount with Sales Price:	
MSRP/DSRP, as applicable	\$20,000
Less Dealer Discount	<u>1,000</u>
Sales Price	\$19,000

Dealer Discount without Sales Price:
"\$1,000 Discount Off MSRP/DSRP"

(2) If a savings claim or discount offer includes only a customer rebate, that incentive must be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable formats for advertising a customer rebate with and without a sales price.

Customer Rebate with Sales Price:	
MSRP/DSRP, as applicable	\$18,000
Less Rebate	<u>500</u>
Sales Price	\$17,500

Customer Rebate without Sales Price:
"\$500 Rebate Off MSRP/DSRP"

(3) If a savings claim or discount offer includes both a customer rebate and a dealer discount, the incentives must be disclosed as deductions from the MSRP/DSRP, as applicable. The following are acceptable formats for advertising both a customer rebate and a dealer discount with and without a sales price.

Customer Rebate and Dealer Discount with Sales Price:

MSRP/DSRP, as applicable	\$20,000
Less Rebate	500
Less Dealer Discount	<u>500</u>
Sales Price	\$19,000

Customer Rebate and Dealer Discount without Sales Price:

“\$1,000 Savings Off MSRP/DSRP (\$500 Rebate and \$500 Dealer Discount)”

(i) If a savings claim or discount offer includes an option package discount, that discount should be disclosed above, or prior to, the MSRP/DSRP, as applicable, with a total sales price of the motor vehicle before option discounts. Any additional savings or discounts should then be disclosed below the MSRP/DSRP, as applicable. The following are acceptable formats for advertising an option package discount with and without a sales price.

Option Package Discount with Sales Price:

Total Vehicle Plus Options	\$10,995
Option Package Discount	1,000
MSRP/DSRP, as applicable	9,995
Less Rebate	500
Less Dealer Discount	<u>500</u>
Sales Price	\$8,995

Option Package Discount without Sales Price:

“Total Savings \$2,000 (\$1,000 Option Package Discount; \$500 rebate, and \$500 dealer discount off MSRP/DSRP)”

(j) Except as provided herein, the calculation of the featured sales price or featured savings claim or discount may not include a limited rebate. A limited rebate may be advertised by providing the amount of the limited rebate and explaining the conditions or restrictions on qualification for the limited rebate in a statement below the featured sales price or featured savings claim or discount.

MSRP/DSRP, as applicable	\$20,000
Less Rebate	1,000
Less Dealer Discount	<u>1,000</u>
Sales Price	\$18,000

FIRST TIME BUYERS RECEIVE ADDITIONAL \$500 OFF

(k) In an internet advertisement with multiple limited rebates available on an advertised new motor vehicle, a dealer may display each limited rebate separately allowing a potential buyer to "click" on the limited rebate to view the sales price after deducting the applicable limited rebate or applicable multiple rebates.

Additional Available Limited Rebates (Click the applicable box or boxes for Sales Price)

See Dealer for Eligibility Terms

- HISD Teachers 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 Selected Discounts \$ _____

(l) If a dealer has added an option that was not obtained from the manufacturer or distributor of the motor vehicle, a dealer discount may not be advertised for that vehicle. If a dealer has added an option obtained from the manufacturer or distributor and disclosed that option and its suggested retail price on a dealership addendum, the dealer may advertise a dealer discount for that motor vehicle if the option is listed, and the difference is shown between the dealer's sales price and the MSRP/DSRP, as applicable, of the vehicle including the option obtained from the manufacturer or distributor.

MSRP/DSRP, as applicable	\$20,000.00
Total Dealer Installed Factory Options	<u>\$1,000.00</u>
Total	\$21,000.00
Less Dealer Discount	<u>\$500.00</u>
Sales Price	\$20,500.00

§ 215.251. Identification

(a) When the sales price of a motor vehicle is advertised, the following must be disclosed:

- (1) model year;
- (2) make;
- (3) model line and style or model designation; and
- (4) if applicable, whether the motor vehicle is used, a demonstrator, or a factory executive/official vehicle.

(b) Expressions such as "fully equipped," "factory equipped," "loaded," and other such terms shall not be used in any advertisement that contains the sales price of a motor vehicle unless the optional equipment of the motor vehicle is listed in the advertisement.

(c) A photograph or other representation of a motor vehicle used in an advertisement must be of the motor vehicle being advertised or substantially the same as that of the motor vehicle advertised.

§ 215.252. Advertising at Cost or Invoice

(a) The term "dealer's cost" or other reference to the cost of the motor vehicle shall not be used.

(b) The terms "invoice" or "invoice price" in advertising shall not be used.

§ 215.253. Trade-in Allowances

No guaranteed trade-in amount or range of amounts shall be used in advertising. Additionally, an advertisement shall not state an amount or range of amounts for trade-in assistance or advertise that an offer is any specific amount or range of amounts over blue book value, black book value, or use any other similar language indicating there is an established retail value or starting price point for a used motor vehicle.

§ 215.254. Used Motor Vehicles

A used motor vehicle shall not be advertised in any manner that creates the impression that it is new. A used motor vehicle shall be identified as "used" or "pre-owned." Terms such as "program car," "special purchase," "factory repurchase," or other similar terms shall not be used to identify a motor vehicle as used.

§ 215.255. Demonstrators and Factory Executive/Official Motor Vehicles

If a demonstrator or factory executive/official motor vehicle is advertised, the advertisement must clearly and conspicuously identify the motor vehicle as a demonstrator or factory executive/official motor vehicle. A demonstrator or factory executive/official motor vehicle may not be advertised or sold except by a dealer franchised and licensed to sell that line-make of new motor vehicle.

§ 215.256. Free Offers

(a) No merchandise or enticement may be described as "free" if the:

(1) motor vehicle can be purchased or leased for a lesser sales price without the merchandise or enticement; or

(2) sales price of the motor vehicle has been increased to cover the cost or any part of the cost of the merchandise or enticement.

(b) The advertisement shall clearly and conspicuously disclose the conditions under which the "free" merchandise or enticement being offered may be obtained.

§ 215.257. Authorized Dealer

The term "authorized dealer" or a similar term shall not be used unless the advertising dealer holds both a franchise and a dealer license to sell the motor vehicles the dealer identifies itself as "authorized" to sell.

§ 215.258. Manufacturer and Distributor Rebates

It is unlawful for a manufacturer or distributor to advertise any offer of a rebate, interest or finance charge reduction, or other financial inducement or incentive for the benefit of the purchaser of a motor vehicle if the selling dealer contributes in any manner to that incentive program, unless the advertisement discloses that the dealer's contribution may affect the final negotiated sales price of the motor vehicle.

§ 215.259. Rebate and Financing Rate Advertising by Dealers

(a) It is unlawful for a dealer to advertise an offer of a manufacturer's or distributor's rebate, interest or finance charge reduction, or other financial inducement or incentive if the dealer contributes to the incentive program, unless such advertising discloses that the dealer's contribution may affect the final negotiated price of the motor vehicle.

(b) An advertisement containing an offer of an interest or finance charge incentive that is paid for or financed by the dealer rather than the manufacturer or distributor shall disclose:

- (1) that the dealer pays for or finances the interest or finance charge rate reduction;
- (2) the amount of the dealer's contribution in either a dollar or percentage amount; and
- (3) that such arrangement may affect the final negotiated price of the motor vehicle.

(c) An offer or promise to pay or to tender cash to a buyer of a motor vehicle, as in a rebate or cash back program, may not be advertised unless the rebate or cash back program is offered and paid in part by the motor vehicle manufacturer or distributor directly to the retail purchaser or to the assignee of the retail purchaser and unless the advertisement sets forth the contribution disclosures required by this rule.

§ 215.260. Vehicle Lease Advertisements

A vehicle lease advertisement shall clearly and conspicuously disclose that the advertisement is for the lease of a motor vehicle. Statements such as "alternative financing plan," "drive away for \$ per month," or other terms or phrases that do not use the term "lease" do not constitute adequate disclosure of a lease. A vehicle lease advertisement shall not contain the phrase "no down payment" or similar words or phrases if any payment is required to be paid by the customer to lease the motor vehicle. Vehicle lease terms that are not available to the general public shall not be included in advertisements directed at the general public, or all limitations and qualifications applicable to the vehicle lease terms advertised shall be clearly and conspicuously disclosed.

§ 215.261. Manufacturer/Distributor Sales and Wholesale Prices

A motor vehicle shall not be advertised for sale in any manner that creates the impression that it is being offered for sale by the manufacturer or distributor of the motor vehicle. An advertisement shall not:

- (1) contain terms such as "factory sale," "fleet prices," "wholesale prices," "factory approved," "factory sponsored," "manufacturer sale," or "distributor sale";
- (2) use a manufacturer's/distributor's name or abbreviation in any manner calculated or likely to create an impression that the motor vehicle is being offered for sale by the manufacturer or distributor; or
- (3) use any other similar terms which indicate sales other than retail sales from the dealer.

§ 215.263. Sales Payment Disclosures

An advertisement that contains the amount of any payment, including a down payment in either a percentage or dollar amount, or an advertisement that contains the number of payments, the period of repayment, or the amount of any finance charge must include the following:

- (1) the amount or percentage of the down payment;
- (2) 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;
- (3) the annual percentage rate (APR); and
- (4) the amount of the APR, if increased, after consummation of the credit transaction.

§ 215.264. Payment Disclosure - Vehicle Lease

(a) An advertisement that promotes a consumer lease and contains the amount of any payment or that contains either a statement of any capitalized cost reduction or other payment or a statement that no payment is required at consummation or prior to consummation or delivery, if delivery occurs after consummation, must clearly and conspicuously include the following:

- (1) that the transaction advertised is a vehicle lease;
- (2) the total amount due at consummation or prior to consummation or delivery, if delivery occurs after consummation;
- (3) the number, amount, and due date or period of scheduled payments under the vehicle lease;
- (4) a statement of whether a security deposit is required; and
- (5) a statement that an extra charge may be imposed at the end of the vehicle lease term where the lessee's liability, if any, is based on the difference between the residual value of the leased property and its realized value at the end of the vehicle lease term.

(b) Except for a periodic payment, a reference to a charge described in subsection (a)(2) of this section cannot be more prominently advertised than the disclosure of the total amount due at vehicle lease signing or delivery.

(c) Except for disclosures of limitations on rate information, if a percentage rate is advertised, that rate shall not be more prominently advertised than any of the following disclosures in the advertisement.

- (1) Description of payments.
- (2) Amount due at vehicle lease signing or delivery.
- (3) Payment schedule and total amount of periodic payments.
- (4) Other itemized charges that are not included in the periodic payment. These charges include the amount of any liability that the vehicle lease imposes upon the lessee at the end of the vehicle lease term.
- (5) Total number of payments.
- (6) Payment calculation, including:
 - (A) gross capitalized cost;
 - (B) capitalized cost reduction;
 - (C) adjusted capitalized cost;
 - (D) residual value;

- (E) depreciation and any amortized amounts;
 - (F) rent charge;
 - (G) total of base periodic payments;
 - (H) vehicle lease term;
 - (I) base periodic payment;
 - (J) itemization of other charges that are a part of the periodic payment; and
 - (K) total periodic payment.
- (7) Early termination conditions and disclosure of charges.
 - (8) Maintenance responsibilities.
 - (9) Purchase option.
 - (10) Statement referencing nonsegregated disclosures.
 - (11) Liability between residual and realized values.
 - (12) Right of appraisal.
 - (13) Liability at the end of the vehicle lease term based on residual value.
 - (14) Fees and taxes.
 - (15) Insurance.
 - (16) Warranties or guarantees.
 - (17) Penalties and other charges for delinquency.
 - (18) Security interest.
- (d) If a vehicle lessor provides a percentage rate in an advertisement, a notice stating "this percentage may not measure the overall cost of financing this lease" shall accompany the rate disclosure. The vehicle lessor shall not use the terms "annual percentage rate," "annual lease rate," or any equivalent terms in any advertisement containing a percentage rate.
- (e) A multi-page advertisement that provides a table or schedule of the required disclosures is considered a single advertisement, provided that for vehicle lease terms appearing without all of the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.
- (f) A merchandise tag stating any item listed in subsection (a) of this section must comply with subsection (a)(1) - (5) of this section by referring to a sign or to a display prominently posted in the vehicle lessor's place of business. The sign or display must contain a table or schedule of the required disclosures under subsection (a)(1) - (5).
- (g) An advertisement made through television or radio stating any item listed in subsection (a) of this section, must include the following statements:
- (1) that the transaction advertised is a vehicle lease;
 - (2) the total amount due at consummation or due prior to consummation or delivery, if delivery occurs after consummation; and
 - (3) the number, amount, and due date or period of scheduled payments under the vehicle lease.
- (h) In addition to the requirements of subsection (g)(1) - (3) of this section, an advertisement made through television or radio stating any item listed in subsection (a) of this section, must:
- (1) provide a toll-free telephone number along with a statement that the telephone number may be used by consumers to obtain the information in subsection (a) of this section; or

- (2) direct the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that the required disclosures in subsection (a) of this section are included in the advertisement.
- (i) The toll-free telephone number required by subsection (h)(1) of this section shall be available for at least 10 days, beginning on the date of the broadcast. Upon request, the vehicle lessor shall provide the information in subsection (a) of this section orally or in writing.
- (j) The written advertisement required by subsection (h)(2) of this section shall be published beginning at least three days before the broadcast and ending at least 10 days after the broadcast.

§ 215.265. Bait Advertisement

Bait advertisements shall not be used by any person.

§ 215.266. Lowest Price Claims

- (a) Claims that represent a lowest price, best price, best deal, or other similar superlative claims shall not be used in advertising.
- (b) If a "meet or beat" guarantee is advertised, then the advertisement must clearly and conspicuously disclose the conditions and requirements necessary in order for a person to receive the offer or guarantee.

§ 215.267. Fleet Prices

Terms such as "fleet prices," "fleet sales," or other terms or phrases implying that individual retail customers will be afforded the same price or discount as multi purchase commercial businesses shall not be used.

§ 215.268. Bankruptcy and Liquidation Sales

A person who advertises a liquidation sale, auction sale, or going out of business sale shall state the correct name and permanent address of the owner of the business in the advertisement. The phrases "going out of business," "closing out," "shutting doors forever," "bankruptcy sale," "foreclosure," "bankruptcy," or similar phrases or words indicating that an enterprise is ceasing business shall not be used unless the business is closing its operations and follows the procedures required by Business and Commerce Code, Chapter 17, Subchapter F.

§ 215.269. Finding of Violation

A person shall not be held in violation of the rules, including the general prohibition, except upon a finding of a violation made by the department after the filing of a Notice of Department Decision and an opportunity to request a hearing as provided in Occupations Code, Chapter 2301.

§ 215.270. Enforcement

- (a) The department may file a Notice of Department Decision against a license holder alleging a violation of an advertising provision pursuant to Occupations Code, §2301.203, provided the department can show:

- (1) that the license holder who allegedly violated an advertising provision has received from the department a notice of an opportunity to cure the violation by certified mail, return receipt requested, in compliance with subsection (b) of this section; and
 - (2) that the license holder committed a subsequent violation of the same advertising provision.
- (b) An effective notice issued under subsection (a)(1) of this section must:
- (1) state that the department has reason to believe that the license holder violated an advertising provision and must identify the provision;
 - (2) set forth the facts upon which the department bases its allegation of a violation; and
 - (3) state that if the license holder commits a subsequent violation of the same advertising provision, the department will formally file a Notice of Department Decision.
- (c) As a part of the cure procedure, the department may require a license holder who allegedly violated an advertising provision to publish a retraction notice to effect an adequate cure of the alleged violation. A retraction notice must:
- (1) appear in a newspaper of general circulation in the area in which the alleged violation occurred;
 - (2) appear in the portion of the newspaper devoted to motor vehicle advertising, if any;
 - (3) identify the date and the medium of publication, print, electronic, or other, in which the advertising alleged to be a violation appeared; and
 - (4) identify the alleged violation of the advertising provision and contain a statement of correction.
- (d) A cure is made solely for the purpose of settling an allegation and is not an admission of a violation of these rules; Occupations Code, Chapter 2301; or other law.

§ 215.271. Auction

Terms such as "auction," "auction special," or other terms with similar meaning shall be used only in connection with a motor vehicle offered or sold at a bona fide auction.