

Chapter 11, "Amending Rules" will become "Vehicle Repairs and Services" (previously Chapter 15).

Rules will be adopted to implement the provisions of R.S. 32:1268.2 with regard to the disposal of inventory and R.S. 32:1256 with regard to new motor vehicle auto shows. Certain Sections will be amended with language to clarify the rules and put into the rule customary procedures of the commission which will assist licensees in dealing with the regulatory scheme assigned the commission.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 1. Motor Vehicle Commission

Chapter 1. General Requirements

§101. Definitions

[Previously §707]

A. Definitions

Abbreviations—using shortened terms for words or initials for groups of words. Commonly understood abbreviations, such as “ ‘2 DR’ ,” “ ‘AM/FM’ ,” “ ‘APR’ ,” “ ‘WAC’ ,” “ ‘DEMO’ ,” “ ‘EXEC’ ,” “ ‘DOC FEE’ ,” may be used. Trade industry abbreviations which are not commonly understood, such as “ ‘FTB’ ,” “ ‘A/R’ ,” “ ‘TOP’ ,” “ ‘POF’ ,” “ ‘DOC’ ,” may not be used. This rule does not contain a list of all the abbreviations one may not use.

Advertisement—an oral, written, telecommunicated, graphic, or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, letter, flyer, price tag, window sticker, banners, billboards, handbills, or on radio, the Internet, or via on-line computer service, or on television or on-hold messaging, any medium.

Bait Advertisement—an alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain leads to persons interested in buying or leasing merchandise of the type advertised and to switch consumers from buying or leasing the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser.

Balloon Payment—any scheduled payment required by a consumer credit sale or consumer loan that is more than twice as large as the average of all prior scheduled payments except the down payment.

Commission—the Louisiana Motor Vehicle Commission.

Dealership Addendum—a form which is to be 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 vehicle for delivery to a buyer.

a. The addendum is to disclose:

- i. that it is supplemental;**
- ii. any added feature, service, equipment, part, or accessory charged and added by the dealership and the retail price therefore;**
- iii. any additional charge to the selling price manufacturer’s suggested retail price (MSRP) such as additional dealership markup; and**

NOTICE OF INTENT

Office of the Governor Motor Vehicle Commission

General Provisions

(LAC 46:V.Chapters 1, 3, 5, 7, 9, 11, 13, 15, 17, and 19)

In accordance with the provisions of the Administrative Procedures Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, notice is hereby given that the Louisiana Motor Vehicle Commission proposes to repeal provisions of its rules relating to hearings and replace them with existing and new regulations and language to clarify the Rule as follows:

§101, “License Required” will become “Definitions” (previously §707);

§103, “Application for License” will become “Communication with Commission” (previously §107);

§105, “Violation of License Requirement” will become “Powers and Duties of Executive Director” (previously §109);

§301, "Hearings" will become "Investigation and Adjudication by the Commission";

§303, "Compulsory Attendance of Witnesses" will become "Adjudication Process and Procedures";

§305, "Notification and Hearing Decision" will become "Formal Hearing";

§307, "Appeal" will become "Declaration Orders and Rulings";

§505, "Licensee Employing Salesmen" will become "Pocket License Card";

Chapter 9, "Prohibitions" will become "Franchised Dealer Requirements" (previously Chapter 13); and

iv. the total dealer retail price.

b. The dealership addendum form shall not be deceptively similar in appearance to the manufacturer's label, which is required to be affixed by every manufacturer to the windshield or side window of each new motor vehicle under the Automobile Information Disclosure Act.

Demonstrator—a new motor vehicle that is currently in the inventory of the automobile dealership and used or has been used primarily for test drives by customers and other dealership purposes and so designated by the dealership. Demonstrators may be advertised for sale as such only by an authorized dealer in the same make of motor vehicle.

Disclaimer—those words or phrases used to provide a clear understanding of any advertised statement, but not used to contradict or change the meaning of the statement.

Disclosure—a clear and conspicuous statement made in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable and understandable. The disclosure may not contradict or be inconsistent with any other information with which it is presented. If the disclosure modifies, explains, or clarifies other information with which it is presented, or states "see dealership for details," then it must be presented in proximity to the information it modifies, in a manner readily noticeable, readable, and understandable, and it must not be obscured in any manner.

a. An audio disclosure must be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it.

b. A visual disclosure for television must appear on the screen for a duration sufficient for a consumer to read and comprehend it.

c. In a print or internet advertisement or promotional material, including without limitation point of sale display or brochure materials directed to consumers, a disclosure must be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in a print that contrasts with the background against which it appears.

d. For purposes of these rules, qualifying terms and phrases will be considered to be clearly, conspicuously and accurately set forth if they are:

i. in bold print and type of such size that is capable of being read without unreasonable extra effort;

ii. expressed in terms that are understandable to the buying public; and

iii. in close proximity to the qualified representation and not separated or buried by asterisk in some other part of the advertisement.

Factory Executive/Official 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.

Internet—a system that connects computers or computer network.

Licensee—any person required to obtain a license from the commission.

Manufacturer's Label—the label required by the Automobile Information Disclosure Act, 15 U.S.C. 1231-

1233, to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to the dealer.

Program Vehicle—a used vehicle that is purchased at a manufacturer's closed auction or sold by or directly from the manufacturer or distributor which is current or previous year model, that has been previously tagged and/or titled, and returned to the manufacturer for disposal.

Rebate or Cash Back—a sum of money refunded to a purchaser for their benefit by the manufacturer or distributor after full payment has been rendered. The purchaser may choose to reduce the amount of the purchase price by the sum of money or the purchaser may opt for the money to be returned to himself or for his benefit subsequent to payment in full.

Vehicle—any motor vehicle or recreational product subject to regulation by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253 E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:

§103. Communication with Commission [Previously §107]

A. All communications with the commission should be addressed to its office, 3519 Twelfth Street, Metairie, Louisiana 70002. All necessary forms may be obtained at such office.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§105. Powers and Duties of Executive Director [Previously §109]

A. The executive director of the commission shall have charge of the office of the commission, the clerical help therein, the books and records of the commission, and the financial accounts of the commission, subject to the orders and instructions of the commission. He shall attend to such routine correspondence and other activities as may not require official action by the commission itself, and shall perform such other tasks as the commission may delegate to him. The executive director has the authority to issue all licenses upon receipt of applications that comply with the statutes and rules of the commission. He shall endeavor to obtain all necessary information and so handle and process the preliminary aspects of matters which are to come before the commission for official action that when placed before the commission the matter will be in shape for proper official action.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

**§107. Manufacturer Termination of Franchise:
Liquidation of New Vehicle Inventory:
Exception**

A. If the termination, cancellation, or nonrenewal of a licensee's franchise by the manufacturer, distributor, or factory branch is the result of the termination, elimination, or cessation of a motor vehicle or recreational product line (a "vehicle"), whether by bankruptcy, closure of its business or otherwise (the "termination"), the license issued by the commission many remain in effect or be renewed at the discretion of the commission under the following circumstances.

1. The vehicle(s) was acquired in the ordinary course of business as a new vehicle by a person licensed to sell that vehicle.

2. The termination is not a result of the revocation by the commission of the licensee's license or the licensee's conviction of a crime.

3. The vehicle is held in the inventory of the licensee on the date of the termination.

4. The vehicle is sold by the licensee within six months of the date the termination unless this period is extended upon application by the licensee in the commission's discretion.

5. The commission's discretion to allow the licensee to continue in effect does not entitle a licensee whose franchise agreement has been terminated, canceled, or rejected to continue to perform warranty service repairs or continue to be eligible to offer or receive consumer or dealer incentives offered by the manufacturer, distributor, or factory branch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§109. Records Management; General

A. Any public record maintained by the commission may be kept in any written, photographic, microfilm, or other similar form or method, or may be kept by any magnetic, electronic, optical, or similar form of data compilation that has reasonable safeguards against erasure or alteration, including the use of programs, methods, procedures and/or services that provide secured, portable document formats and digital signatures, and for which the commission has obtained the necessary licensees and/or authorities to insure reasonable safeguards against erasure or alteration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§113. Hearings on Area of Responsibility Disputes

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1223 (July 2006), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 35:1525 (August 2009), repealed LR 36:

§115. Hearings on a Repurchase Demands

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1223 (July 2006), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 35:1525 (August 2009), repealed LR 36:

Chapter 3. Hearing Procedures

§301. Investigation and Adjudication by the Commission

A. The commission has the responsibility to consider and determine the action necessary upon all charges of conduct which fail to conform to R.S. 32:1251 et seq., as re-enacted and amended, or to the rules and regulations promulgated to carry out the provisions of this Chapter or for the violation of any other law or rule or regulation relating to the sale, lease or rental, distribution or financing of products, and any activities regulated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§303. Adjudication Process and Procedures

A. The provisions of the Administrative Procedure Act shall govern proceedings on questions of violation of R.S. 32:1251 et seq., as re-enacted and amended. An adjudication proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

B. The commission is empowered to conduct investigations to determine compliance with the laws and rules and regulations it administers. The executive director or its designee may issue a subpoena prior to the filing of charges if, in the opinion of the executive director, such a subpoena is necessary to investigate any potential violation or lack of compliance with R.S. 32:1251 et seq., or the rules, regulations, or orders of the commission. The subpoena may be to compel the attendance of any person to appear for the purposes of giving sworn testimony or to compel the production of books, records, papers, or other objects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§305. Formal Hearing

A. The commission has the authority to bring administrative proceedings with regard to any licensee, applicant for a license, or any person engaged in activities regulated by the commission, as well as to conduct administrative hearings with regard to disputes between its licensees regarding the provisions of R.S. 32:1251 et seq., and other laws and rules and regulations administered by the commission. A person(s), who is a party to the hearing, has the right to appear and be heard, either in person or by counsel; the right of notice, a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. Notice and Service

1. The executive director fixes a time and place for a hearing.

2. Within 10 days from the time of receipt of the notice of hearing, the noticed party shall file with the

executive secretary of the commission an answer admitting or denying separately and in good faith each statement of fact made in the notice. If the noticed party has no knowledge of the truth of any particular fact, he shall so state and it shall be taken as denied. Any fact not expressly denied, or knowledge thereof disclaimed, shall be considered admitted. This rule is for the purpose of preventing the loss of time and expense frequently occasioned in proving and recording facts about which there is not real controversy.

3. If the licensee, or person subject to the hearing, does not appear, in person or through counsel, after proper notice has been given, the person may be deemed to have waived his right to appear and the commission may proceed with the hearing without the presence of the person.

4. Informal disposition of any case of adjudication may be made by stipulation, agreed settlement, consent order or default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 36:

§307. Declaratory Orders and Rulings

A. The commission may issue a declaratory order and ruling pursuant to the Administrative Procedure Act which has the same status as a commission decision or order in an adjudicated case.

B. A request for a declaratory order and ruling shall be made in the form of a petition to the commission. The petition shall include, but shall not be limited, to the following:

1. the name and address of petitioner;
2. specific reference to the statutes or rules and regulations to which it relates;
3. a statement of the manner in which the petitioner is aggrieved by the statute or rule or by its potential application to it, or in which it is uncertain of its effects;
4. a statement of whether an oral hearing is desired;
5. other information appropriate for the commission's deliberation on the request.

C. The petition will be considered by the commission at its next regularly scheduled meeting provided that the petition has been filed at least 30 days prior to that meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

Chapter 5. Motor Vehicle Salesmen; Dealers; Distributors

§501. Licenses for Motor Vehicle Salesmen

A. The requirement of licenses for motor vehicle salesmen, as set forth in R.S. 32:1251 et seq., includes any person whose duties include, in whole or in part, the selling, financing, insuring, or participating in the selling of motor vehicles or recreational products.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§503. Unlicensed Motor Vehicle Salesmen

A. It is illegal for licensees to employ unlicensed motor vehicle salesmen. A motor vehicle salesman must possess a separate license for every licensee and location for which he engages in any selling activity.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§505. Pocket License Card

[Previously §507]

A. Every motor vehicle salesman, factory representative, and distributor representative, when licensed, will be licensed to represent his employer and must keep his pocket license card on his person, and his employer must retain possession of the license certificate until termination of such employment. Said motor vehicle salesman, factory representative, or distributor representative may not represent another employer without first being issued a license to represent the said particular employer.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1256.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§507. Termination of Motor Vehicle Salesman; Return of Pocket Card and License

[Previously §509]

A. All licenses having motor vehicle salesmen in their employ must, upon termination of such employment, report same to the commission and see to it that said motor vehicle salesman's pocket card and license certificate are immediately returned to the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§509. Unlicensed Motor Vehicle Salesmen; Prohibition against Use of

[Previously §511]

A. Licensees shall not employ or compensate unlicensed motor vehicle salesmen to sell vehicles, and shall not employ or utilize the services of used motor vehicle lots or dealers or other unlicensed "bird dogs" in connection with the sale of vehicles.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§511. Display of License
[Previously §513]

A. Every licensee must post his license certificate as such in a prominent place in his place of business, stated in such license certificate, and licensees having more than one place of business in Louisiana must obtain a separate license for each place of business and post in each place of business in a prominent place the license for such place of business.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§513. License Prior to Shipment
[Previously §515]

A. A manufacturer, distributor, converter, factory representative, or distributor representative shall not ship or sell motor vehicles, recreational products, or specialty vehicles to a licensee until the licensee shall have been licensed by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

Chapter 7. Advertising

§703. General Prohibition

A. A person advertising vehicles shall not use false, deceptive, unfair, or misleading advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:

§705. Specific Rules

A. The violation of an advertising rule shall be considered by the commission as a prima facie violation of R.S. 32:1251 et seq. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the commission to be false, deceptive, or misleading shall be deemed a violation of R.S. 32:1251 et seq., and shall also be considered a violation of the general prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:

§709. Availability of Vehicles

A. - A.2. ...

B. Licensees may advertise a specific used vehicle or vehicles for sale if:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:76 (January 2008), amended LR 36:

§713. Untrue Claims

A.1. - 5. ...

6. specific claims or discount offers shall not be used in connection with any vehicle other than new or a demonstrator and then only to show the difference between the dealer's own current selling price and the bona fide manufacturer's suggested list price, if an automobile, or manufacturer's suggested retail price, if a truck or recreational product. Full explanation must be given, as for example, "Save or discount \$ from manufacturer's list/retail price." Such statements as "Up To," "As Much As," "From"- "To," etc., shall not be used in connection with savings claims.

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:76 (January 2008), amended LR 36:

§717. Manufacturer's Suggested Retail Price

A. The suggested retail price of a new motor vehicle when advertised by a manufacturer or distributor shall include all costs and charges for the vehicle advertised, except that destination and dealer preparation charges, state and local taxes, title, and license fees may be excluded from such price, provided that the advertisement clearly and conspicuously states that such costs and charges are excluded. With respect to advertisements placed with local media in Louisiana by a manufacturer or distributor which includes the names of the local dealers of the vehicles advertised, if the price of a vehicle is stated in the advertisement, such price must include all costs and charges for the vehicle advertised, including destination and dealer preparation charges and may exclude only state and local taxes, license, and title fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:

§719. Dealer Price Advertising

A. The featured price of a new or used vehicle, when advertised, must be the full cash price for which the vehicle will be sold to any and all members of the buying public. The only charges that may be excluded from the advertised price are:

A.1. - B. ...

C. If a price advertisement of a new vehicle discloses a rebate, cash back, discount savings claim, or other incentive, the full cash price of the vehicle must be disclosed as well as the price of the vehicle after deducting the incentive. The following is an acceptable format for advertising a price with rebates and other deductions.

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$500
less dealer discount	\$500
Sale Price	8,995

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:

§721. Identification

A. - B. ...

C. An illustration of a vehicle used in an advertisement must be substantially the same as that of the vehicle advertised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:

§729. Demonstrators, Factory Executive/Official Vehicles

A. If a demonstrator or factory executive/official vehicle is advertised, the advertisement must clearly and conspicuously identify the vehicle as a demonstrator or factory executive/official vehicle. A demonstrator or factory executive/official vehicle may be sold only by a dealer franchised and licensed to sell that line-make of vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:78 (January 2008), amended LR 36:

§747. Savings Claims; Discounts

A. ...

B. The featured savings claim or discount offer for a vehicle, when advertised, must be the savings claim or discount which is available to any and all members of the buying public.

C. If a dealer has added an option obtained from the manufacturer or distributor of the vehicle on which it is installed and disclosed the option and factory suggested retail price of the option on a dealership addendum sticker prior to offering the vehicle for sale at retail, the dealer may advertise a savings claim on that vehicle as long as the difference is shown between the dealer's selling price and the total selling price as disclosed on the dealership addendum sticker and discloses the factory-available options added in the advertisement. If an option that is added by a dealer is not a factory-available option, a savings claim may not be advertised on that vehicle.

D. ...

E. No person may advertise a savings claim or discount offer on used vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 34:78 (January 2008), amended LR 36:

Chapter 9. Franchised Dealer Requirements

§901. Display Showroom Requirement

[Previously §1301]

A. Franchised new motor vehicle dealers must have an enclosed new motor vehicle display showroom of not less than 400 square feet in area, and must maintain an adequate stock of replacement parts, an adequate shop area and adequate mechanical facilities for the proper servicing of the motor vehicles which he sells.

B. Provided that low speed vehicles as defined from time to time by the Office of Motor Vehicles and exclusive heavy

duty truck dealers are not required to maintain a display showroom as required by this Section.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983), amended LR 36:

Chapter 11. Vehicle Repairs and Services

§1101. Definitions

[Previously §1501]

A. For the purpose of Chapter 11 only, the following definitions shall apply.

Anticipated Repairs, Services, Labor, and Parts—those repairs, services, labor, and parts, which based on the judgement, training, and experience of the supplier will be foreseeably required in order to achieve the results desired by the consumer who requests repairs and services.

Necessary Repairs, Services, Parts and Labor—those repairs, services, parts and labor which, in the judgement of the supplier, are required to fully remedy or prevent a defect or malfunction.

Original Estimate—an approximation of the cost of anticipated repairs and services to be performed by a supplier which does not exceed the subsequent actual cost of such anticipated repairs and services by more than 25 percent.

Supplier—any new or unused vehicle dealer who furnishes or supplies vehicle repairs and services, either directly or through the employment of other mechanics or repairmen; provided, however, that vehicle repairs and services performed on vehicles over 20,000 pounds, GVWR are excluded for the purposes of Chapter 11.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§1103. Unfair Acts and Practices

[Previously §1503]

A. It shall be an unfair act or practice, in connection with a transaction involving motor vehicle repairs and services for a supplier of such repairs and services to do any of the following:

1. if specifically requested by consumer, when the anticipated repairs exceed \$125, then to fail to provide in advance, to a consumer seeking repairs and services, a written original estimate of the cost to the consumer of all anticipated repairs and service, including any charge for disassembly or reassembly of any parts disassembled for inspection and any service charge of any type to be imposed:

a. such written estimate shall include, in separate columns an itemized list of each anticipated repair to be performed, the anticipated labor charge involved for each repair, and the cost to the consumer of anticipated parts to be replaced;

b. the requirement of §1103 shall be satisfied by the statement of a flat rate price if such repairs and services are customarily done and billed on a flat rate basis;

c. notwithstanding anything herein to the contrary, if disassembly for inspection is necessary to determine the extent of anticipated repairs before an original estimate can be given, then any charge for such disassembly and/or reassembly shall be disclosed in advance: provided further that the amount of the charge referred to herein shall not be conditioned upon the consumer consenting to performance of the inspection by the supplier who performs said inspection;

d. a fair charge may be made by the supplier for the service of preparing this written estimate; said charge not to exceed \$5 for an estimate up to \$200 and not to exceed \$10 for estimate in excess of \$200 if same is made on the premises of the supplier, and notice of this charge must be posted as designated in §1103.A.3;

2. if an original written estimate is requested by a consumer, then, to fail to obtain oral or written authorization from the consumer for subsequently arising unanticipated, but necessary, repairs, services, parts and labor, when those repairs, services, parts and labor will exceed the cost estimated in the original estimate, or itemized part thereof, by more than 25 percent excluding tax:

a. when unanticipated, but necessary, repairs, services, parts and labor are needed and authorization to perform same is obtained from the consumer, the cost of these additional repairs, services, parts and labor shall be separately estimated in writing and a copy of this separate estimate made available to the consumer;

3. to fail to post in a conspicuous place in the service reception area a sign with a white background and having black letters at least 1 inch in weight which reads as follows:

a. Notice to Our Customers

You may request a written estimate, in advance, before authorizing us to repair your vehicle if it is anticipated that such repairs might exceed \$125. Our charge for such estimate is \$__ for any job up to \$200 and \$__ for jobs in excess of \$200;

b. provided that the supplier makes no charge for a written estimate then he may delete the last sentence of the above notice and insert in its place a statement that no charge is made for the estimate;

c. provided further that the supplier may at his option, change the \$125 requirement to a lesser amount;

4. to fail to reassemble any parts disassembled for inspection unless the consumer is so advised prior to acceptance for inspection by the supplier;

5. to willfully represent that repairs are necessary when such is not the fact;

6. to willfully represent that repairs have been made when such is not the fact;

7. to willfully represent that the parts being inspected or diagnosed are in a dangerous condition or that the consumer's continued use of them may be harmful to him when such is not the fact;

8. to willfully understate or misstate the estimated cost of repairs, services, parts and labor in excess of 25 percent for the purpose of inducing a consumer to enter into a transaction for repairs and services;

9. to fail to disclose the intended use of used parts in conjunction with repairs and services, or to install used parts without the knowledge and consent of the consumer;

10.a. to fail to provide the consumer with an itemized bill indicating repairs and services actually performed, parts actually replaced, or materials actually used, the total labor charge, and the name of the mechanic, repairman, or supplier who performed the work;

b. the requirements of §1103.A.10.a shall be satisfied by a bill reflecting a flat rate price if such repairs and services are customarily done and billed on a flat rate basis.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§1105. Replaced Parts

[Previously §1505]

A. Upon request of the consumer at the time the repair order is written, the supplier shall then tender to such consumer any replaced parts at the time the job is delivered, unless the parts are to be rebuilt or sold by the supplier, or if the part is a warranty part that must be returned to the manufacturer, and such intended reuse or return is made known to the consumer at the time of the request.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

Chapter 13. New Motor Vehicle Auto Shows

§1301. Authorization for Auto Show

A. The commission may authorize or prohibit motor vehicle sales and shows at offsite locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§1303. Application for Show Permit

A. The organizer or promoter of a new motor vehicle auto show shall be required to obtain a license from the commission and its request for a license shall consist of the following:

1. the application shall be on a form prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant;

2. a license fee of \$500;

3. the license shall be for the new motor vehicle auto show subject of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

§1305. Show Requirements

A. The application must be submitted to the commission no less than 60 days prior to the opening date of the event and must include a list of all licensed motor vehicle dealers within the geographical area.

B. Only licensed motor vehicle dealers may conduct sales of motor vehicles at such sales and shows.

C. The show must be for a particular geographical area, not less than a parish. The geographical area cannot include a part of a parish.

D. All licensed motor vehicle dealers within the show's geographical area must be offered the opportunity to participate in the show.

E. A majority of the licensed motor vehicle dealers within the show's geographical area must participate in the event.

F. Each respective manufacturer shall grant authority to the respective dealers participating to conduct the sale or show of motor vehicles at the proposed offsite location.

G. A licensed motor vehicle dealer may participate in only two shows in a calendar year.

H. Not less than 30 days prior to the opening day of the show the commission must receive a list of all participating licensed motor vehicle dealers together with the consent of each respective manufacturer.

I. Participation by a licensed motor vehicle dealer shall include display of vehicles and presence of dealer personnel

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:

Chapter 17. Motor Vehicle Lessor

§1701. Qualifications and Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1254 and R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Motor Vehicle Commission, LR 11:518 (May 1985).

§1703. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1254 and R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Motor Vehicle Commission, LR 11:518 (May 1985), repealed LR 36:

Chapter 19. Marine Products Area of Responsibility

§1901. Uniform Procedures to Designate the Territory Assigned to a Marine Dealer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781 and 817.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2482 (November 2004), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1528 (August 2009), repealed LR 36:

§1903. Procedure for Appointing Independent Marine Surveyor

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:771.

HISTORICAL NOTE: Promulgated by Office of the Governor, Recreational and Used Motor Vehicle Commission LR 30:2482 (November 2004), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1528 (August 2009), repealed LR 36:

§1905. Procedure of Designation of Area of Responsibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781 and 817.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:2481 (November 2004), amended LR 33:1638 (August 2007), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1528 (August 2009), repealed LR 36:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule should have a positive effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? The Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. What effect will this have on the ability of the family or local government to perform the function as contained in this proposed Rule? This Rule is designed to help the family to obtain the information and help needed to own their own automobile.

Small Business Statement

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Any person may submit data, views or positions, orally or in writing to the Louisiana Motor Vehicle Commission, 3519 Twelfth Street, Metairie, LA 70002 or by telephoning at 504-838-5207 and facsimile 504-838-5416.

Lessie A. House
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: General Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The revision and simplification of existing rules will not have any impact on expenditures for state or local governmental units as policies which have been standard practice for many years have been incorporated into the administrative rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule will not effect revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is estimated that implementation of the proposed rules will have little or no effect on directly affected persons or non governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposal.

Lessie House
Executive Director
1004#011

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office