

940 CMR 5.00: MOTOR VEHICLE REGULATIONS

Section

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5.01: Definitions

Advertisement (including the terms advertise and advertising) means any oral, written or graphic statement made by a seller in any manner in connection with the solicitation of business and includes, without limitation because of enumeration, statements and representations made in a newspaper or other publication or on radio or television or contained in any notice, handbill, sign, billboard, poster, bill, circular, brochure, pamphlet, catalogue or letter, or printed on or contained in any tag or label which is attached to or accompanies any merchandise offered for sale.

Authorized Dealer Representative means a salesperson, sales manager or other agent or employee of a motor vehicle dealer who is authorized to represent or act for the dealer in connection with the acceptance, rejection or modification of motor vehicle purchase contracts.

Clear and Conspicuous means that the statement, representation or term being disclosed is of such size, sound or color contrast and is so placed as to be readily noticeable to the person to whom it is being disclosed. A statement contained in a printed contract, form or notice is not clear and conspicuous unless it is printed in at least ten point type or its equivalent.

Customer means any person who has repairs, service or maintenance performed or seeks to have repairs, service or maintenance performed by a repair shop on a motor vehicle.

Defect means any defect in the design, construction or performance of a motor vehicle produced by a manufacturer which the manufacturer has reason to believe may occur or exist in a substantial number of vehicles produced by the manufacturer and which (a) creates an unreasonable risk of accident, death or injury; (b) substantially impairs the operation or performance of the vehicle; or (c) substantially impairs the value of the vehicle.

Manufacturer includes the following:

- (a) Any person engaged in the business of manufacturing or assembling new and unused motor vehicles;
- (b) Any person engaged in the business of importing new and unused motor vehicles into the United States; and
- (c) Any person engaged in the business of selling or distributing new and unused motor vehicles to motor vehicle dealers located in the Commonwealth.

Motor Vehicle Dealer or Dealer means any person who is engaged in the business of selling, offering for sale or negotiating the retail sale of motor vehicles and includes the officers, agents and employees of such person and any combination or association of dealers. A person shall be deemed to be "in the business of selling" motor vehicles if s/he sells more than three motor vehicles in any calendar year.

Motor Vehicle or Vehicle shall have the same meaning as that set forth in M.G.L. c 90, § 1 except that it shall also include motor cycles.

Person or Persons means an association, a corporation, an institution, a natural person, an organization, a partnership, a trust or any legal entity.

Purchaser means any person who has obtained ownership of a motor vehicle by transfer or purchase or who has entered into an agreement or contract for the purchase of a motor vehicle.

5.01: continued

Repair Shop means a person who, for compensation, engages in the business of diagnosing or repairing malfunctions of or damage to motor vehicles, including auto body shops and retail stores which offer automotive services, but excluding:

- (a) the Commonwealth of Massachusetts and the United States government and all agencies, departments and political subdivisions thereof;
- (b) any industrial or commercial establishment which repairs, services or maintains vehicles for its own use; and
- (c) for purposes of 940 CMR 5.05(2) through (5) and (9), gasoline service stations which engage solely in minor repair services such as changing or repairing tires, lubrication, replacing fan belts and oil and air filters, installing light bulbs, batteries, windshield wiper blades and other minor accessories, and the like.

5.02: Advertising of Motor Vehicles

Scope: 940 CMR 5.02(1) through (15) shall apply to any advertisement published, delivered, broadcast or circulated within the Commonwealth of Massachusetts, whether or not the person placing the advertisement maintains an office in Massachusetts, if the person placing the advertisement intends to sell or actually sells motor vehicles to Massachusetts residents.

(1) It is an unfair or deceptive act or practice for a motor vehicle dealer to advertise any motor vehicles for sale unless the advertisement discloses the business name and address of the dealer.

(2) It is an unfair or deceptive act or practice for a motor vehicle dealer to advertise any vehicle for sale which is not new unless the advertisement clearly and conspicuously discloses:

- (a) The stock number of the vehicle;
- (b) That the vehicle is used; and
- (c) A designation of the vehicle as a demonstrator, taxicab, police car, leased or daily rental vehicle, if the dealer knows or, in the exercise of reasonable care, should know that the vehicle was previously so used.

(3) It is an unfair or deceptive act or practice for a motor vehicle dealer to advertise the price of motor vehicles unless such price includes all charges of any type which are necessary or usual prior to delivery of such vehicles to a retail purchaser, including without limitation any charges for freight, handling, vehicle preparation and documentary preparation, but excluding taxes and optional charges for the dealer's preparation of title and assistance in registering a vehicle.

(4) It is an unfair or deceptive act or practice for a manufacturer to advertise the price of motor vehicles unless the advertisement clearly and conspicuously discloses the nature of all charges which are not included in the advertised price, including without limitation any charges for freight, handling or vehicle preparation, which are necessary or usual prior to delivery of such vehicles to a retail purchaser.

If a manufacturer advertises the price of motor vehicles and the name of any specific motor vehicle dealer is mentioned in such advertisement, the advertised price shall include all charges for freight, handling, dealer preparation and documentary preparation which are necessary or usual prior to delivery of such vehicles to a retail purchaser by the named motor vehicles dealer.

(5) It is an unfair or deceptive act or practice for a motor vehicle dealer to use, in connection with the advertising or sale of motor vehicles, the terms, "dealer's cost", "wholesale", "invoice price", "factory billing", or other terms of like import or any other representation that a motor vehicle will be sold at, above, or below a cost or price standard, unless:

- (a) The cost or price standard represents the total consideration paid by the dealer to the manufacturer for the motor vehicle, and where no hold back, rebate, promotional fee or any other consideration has been or will be paid by the manufacturer to the dealer prior or subsequent to the purchase of the motor vehicle which in any way reduces, diminishes or offsets the cost to the dealer of purchasing the motor vehicle; and

5.02: continued

- (b) The advertisement discloses, for each vehicle or class of vehicles offered for sale, and in close proximity to the reference to such standard and in equivalent type or print size thereto, the exact dollar figure represented by the standard and the actual price at which the vehicle or class of vehicles is offered for sale.
- (6) It is an unfair or deceptive act or practice for a motor vehicle dealer to fail or refuse to sell a motor vehicle in accordance with any terms or conditions, including price or warranty, which the dealer has advertised or otherwise represented.
- (7) It is an unfair or deceptive act or practice for a motor vehicle dealer to advertise motor vehicles for sale at a specified price when the price does not include certain standard equipment with which such vehicles are actually equipped or with which such vehicles are usually or ordinarily equipped unless the advertisement clearly and conspicuously discloses that such equipment is not included in the advertised price.
- (8) It is an unfair or deceptive act or practice for a motor vehicle dealer to advertise a sale or promotion in connection with the sale of motor vehicles without clearly and conspicuously disclosing in such advertisement the expiration date and any other conditions of such sale or promotion, including whether the supply of vehicles or other sale goods is limited.
- (9) It is an unfair or deceptive act or practice for a motor vehicle dealer or manufacturer to make any representation or statement of fact in an advertisement if the dealer or manufacturer knows or should know that the representation or statement is false or misleading or if the dealer or manufacturer does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based.
- (10) It is an unfair or deceptive act or practice for a motor vehicle dealer to advertise or represent in any manner the price which will be paid by such dealer for trade-in vehicles unless the price of the vehicle sold by such dealer to the owner of the trade-in vehicle is within the range of prices at which the dealer usually sells such vehicles and is not increased because of the amount paid for the trade-in vehicle.
- (11) It is an unfair or deceptive act or practice for a motor vehicle dealer to advertise or represent in any manner that a specific price will be paid by such dealer for trade-in vehicles unless either the advertised price will be paid for all trade-in vehicles, regardless of their condition or age, or the advertisement clearly and conspicuously discloses any conditions which trade-in vehicles must meet before such price will be paid.
- (12) It is an unfair or deceptive act or practice for a motor vehicle dealer to advertise or represent in any manner that a range of prices (such as "up to \$500" or "as much as \$500") will be paid by such dealer for trade-in vehicles unless the advertisement clearly and conspicuously discloses the criteria (such as age, condition or mileage) which the dealer will use to determine the amount to be paid for a particular trade-in vehicle.
- (13) It is an unfair or deceptive act or practice for a motor vehicle dealer or manufacturer to use the terms "standard factory equipment," "fully equipped" or words of like import in any advertisement offering motor vehicles for sale; but a dealer or manufacturer may, at its option, list in an advertisement any or all of the specific equipment or accessories with which the advertised vehicle is equipped.
- (14) It is an unfair or deceptive act or practice for a repair shop to advertise that it will perform a "tune-up" on a motor vehicle unless the specific work to be performed on the vehicle is listed and, if a price is advertised, unless the advertisement clearly and conspicuously discloses whether the price includes parts or labor or both.
- (15) It is an unfair or deceptive act or practice for a repair shop to advertise or represent in any manner that it will perform a particular repair on motor vehicles at a specified price unless the price specified includes the total charge to the customer for all parts and labor necessary to perform such

repair.

5.03: Manufacturers' Responsibilities

- (1) It is an unfair or deceptive act or practice for a manufacturer which, pursuant to the terms of a warranty, furnishes replacement parts or equipment for motor vehicles manufactured by it to fail to apply to such replacement parts or equipment the same express warranty which it would have applied to such parts or equipment had they been sold at retail.
- (2) It is an unfair or deceptive act or practice for a manufacturer to:
  - (a) Fail to furnish to its dealers a price list for vehicles, optional equipment, accessories and destination or transportation charges on the basis of which the dealers may execute motor vehicle purchase contracts with purchasers; or
  - (b) Increase the price of any vehicle or other item included on its price list except by advance written notification to its dealers of the specific dollar amount of the increase applicable to such vehicle or item.
- (3) It is an unfair or deceptive act or practice for a manufacturer which has received a written purchase order for a motor vehicle to demand payment for the vehicle or any equipment or accessories ordered in an amount greater than the price listed on the latest price list delivered to its dealers unless:
  - (a) The purchase order requests delivery of the vehicle more than eight weeks after the date of the order and the manufacturer notifies the dealer of a price increase on the vehicle prior to the requested date of delivery.
  - (b) The increase in price is due to a law or regulation of the United States or the Commonwealth of Massachusetts which either requires the addition of new equipment to certain vehicles or changes approved transportation rates or existing tax rates; or
  - (c) In the case of foreign made cars, the increase is due to the revaluation of the United States dollar.
- (4) It is an unfair or deceptive act or practice for a manufacturer to fail to cancel any purchase order for a motor vehicle and refund all amounts received for such vehicle at the request of the dealer, if the manufacturer fails to deliver the vehicle to the dealer within eight weeks after the date of the purchase order, unless:
  - (a) The purchase order specified a different time period for delivery;
  - (b) The manufacturer had notified the dealer in writing, prior to the date of the purchase order, of a longer delivery period for the model vehicle ordered; or
  - (c) The delay is caused by acts beyond the control of the manufacturer.
- (5) It is an unfair or deceptive act or practice for a manufacturer to fail to give prompt written notice of any defect in motor vehicles manufactured by it to its distributors, zone offices, dealers and other representatives, as well as to the purchasers or owners of such vehicles who are known to the manufacturer. Such written notice shall contain the following information:
  - (a) A clear description of such defect and the identity of the model or class of vehicles in which such defect occurs;
  - (b) An evaluation of the risk of accident, impairment of operation or performance or impairment of value of the vehicle reasonably related to such defect;
  - (c) A statement of the measures to be taken to obtain remedy of such defect; and
  - (d) Whether the cost of such remedy or any part thereof will be borne by the manufacturer.
- (6) If a retail purchaser rejects a motor vehicle pursuant to M.G.L. c. 106, §§ 2-601 or revokes his acceptance of a motor vehicle pursuant to M.G.L. c. 106, §§ 2-608, and if the basis for such rejection or revocation is the failure of the motor vehicle to conform to specifications submitted by the dealer to the manufacturer regarding such motor vehicle, the dealer may in turn revoke its acceptance of said motor vehicle, and in such event it shall be an unfair and deceptive act or practice for a manufacturer or distributor to fail to promptly refund to the dealer, upon receipt of the motor vehicle, any and all amounts paid by the dealer to the manufacturer on account of its purchase of said motor vehicle, provided however that:

5.03: continued

- (a) The motor vehicle has not been further altered from the condition it was in when the purchaser rejected or revoked his or her acceptance of it under M.G.L., c. 106 and returned it to the dealer;
- (b) Title to the same is free and clear of all liens and encumbrances; and
- (c) All requisite title documents and instruments of transfer have been properly prepared and executed in favor of the manufacturer.

5.04: Sales Requirements

Scope: 940 CMR 5.04 *et seq.* pertaining to sales requirements shall apply only to sales of motor vehicles which are purchased primarily for personal, family or household purposes.

(1) It is an unfair or deceptive act or practice for a dealer to fail to prepare a written contract for a sale of each motor vehicle and to provide a copy of such contract to the purchaser at the time the purchaser signs the contract in the form and manner prescribed in 940 CMR 5.04(2).

(2) It is an unfair or deceptive act or practice for a dealer to use any written or printed contract, form or agreement to evidence the sale of a motor vehicle which is not clearly entitled "MOTOR VEHICLE PURCHASE CONTRACT" and which does not state:

- (a) The name and address of the dealer and the purchaser;
- (b) The make, model, year and identification or serial numbers of both the vehicle purchased and any trade-in vehicle;
- (c) A designation of the purchased vehicle as either "new" or "used"; and a further designation as a "police car", "taxicab", "demonstrator", "former leased car", "former daily rental" or a rebuilt vehicle which was previously declared a total loss by an insurance company, if the dealer knows or, in the exercise of reasonable care, should know of the applicability of any such designation;
- (d) The total contract price, including an itemized list of any charges for vehicle repair or preparation, optional accessories and documentary preparation which are not already included in the purchase price;
- (e) If there are any conditions precedent to the dealer's acceptance of the contract (for example, if the contract must be counter-signed by an authorized dealer representative or if a trade-in vehicle must be inspected and meet certain standards, etc.), the following statement, set forth in a clear and conspicuous manner, with the conditions inserted in the blank spaces:

"This contract is not binding upon either the dealer or the purchaser until the following conditions are met:

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PURCHASER MAY CANCEL THIS CONTRACT AND RECEIVE A FULL REFUND AT ANY TIME UNTIL S/HE RECEIVES A COPY OF THIS CONTRACT SIGNED BY AN AUTHORIZED DEALER REPRESENTATIVE. PURCHASER MUST GIVE WRITTEN NOTICE OF CANCELLATION TO THE DEALER."

For purposes of 940 CMR 5.00, if a controversy arises concerning the date or time of receipt of any notice or document, the time and date of the postmark will be determinative unless the notice or document was hand-delivered, in which case the actual time of delivery will govern;

- (f) If the vehicle carries an express warranty, the following statement:

"This vehicle carries an express warranty. You may obtain a written copy of such warranty from the dealer upon request."

- (g) The following statement, in either form appearing herein, set forth in a clear and conspicuous manner:

5.04: continued

"ATTENTION PURCHASER: All vehicles are WARRANTED as a matter of state law. They must be fit to be driven safely on the roads and must remain in good running condition for a reasonable period of time. If you have significant problems with this vehicle or if it will not pass a Massachusetts inspection, you should notify the dealer immediately. He may be required to fix the car or refund your money. THIS WARRANTY IS IN ADDITION TO ANY OTHER WARRANTY GIVEN BY THE DEALER." or

"ATTENTION PURCHASER: If you have mechanical or operating problems or if this vehicle does not pass a Massachusetts safety inspection within seven days of purchase, you should notify the dealer immediately. He may be required to fix the vehicle or refund your money. This vehicle is covered by the implied warranties of merchantability and fitness for a particular purpose. THESE IMPLIED WARRANTIES ARE IN ADDITION TO ANY OTHER WARRANTIES GIVEN BY THE DEALER."

- (h) The provisions of 940 CMR 5.04(2) shall not apply to a retail installment sale agreement, or security agreement, or any other document given or taken in connection with the sale of a motor vehicle, so long as a motor vehicle purchase contract in the form specified in 940 CMR 5.00 has been properly executed.
- (3) It is an unfair or deceptive act or practice for a dealer to fail to provide to any person, upon request, a written statement of the terms and conditions of any express warranty applicable to motor vehicles offered for sale by such dealer.
- (4) It is an unfair or deceptive act or practice for a dealer to fail to provide to a purchaser, without additional charge, an exact copy of any document signed by such purchaser (other than the purchaser's transfer or assignment of title to the dealer) at the time the purchaser signs such document.
- (5) It is an unfair or deceptive act or practice for a dealer to make any changes or additions to a document signed by a purchaser unless such purchaser consents to the changes or additions in writing and the dealer immediately provides to the purchaser, without additional charge, an exact copy of the document with the changes or additions.
- (6) It is an unfair or deceptive act or practice for a dealer to fail to display the following statement in a clear and conspicuous manner on the left front window of each used motor vehicle it delivers to a purchaser.

FIGURE 1.

"REFUND RIGHTS

ATTENTION PURCHASER: For your own protection, if you have purchased this vehicle for personal or family use, you should have the vehicle inspected within 7 days after purchase, even if it already has an inspection sticker on it. If the vehicle fails a Massachusetts safety inspection, you may return it to the dealer and receive a full refund of the purchase price, pursuant to M.G.L. c. 90, § 7N, if:

- (1) The car is inspected within seven days after purchase at an authorized Massachusetts inspection station;
- (2) The estimated cost of repairs necessary for the car to pass inspection is more than 10% of the purchase price of the car;
- (3) The defects which cause the vehicle to fail inspection were not caused by the abusive or negligent operation of the vehicle or by damage resulting from an accident occurring after the date of the sale;

5.04: continued

- (4) You obtain from the inspection station a signed, written statement of the reasons why the car failed inspection and an estimate of the cost of repairs necessary for it to pass inspection; and
- (5) You return the car to the dealer *within ten days* from the date of purchase and give him a copy of the statement and estimate prepared by the inspection station."
- (7) It is an unfair or deceptive act or practice for a dealer to use a liquidated damage clause, or any clause requiring the forfeiture of a purchaser's deposit, trade-in vehicle or other property in the event the purchaser cancels or breaches the contract, in any motor vehicle purchase contract unless:
- (a) The clause contains a specific dollar amount which is to be retained by the dealer as liquidated damage;
  - (b) The clause is clearly and conspicuously disclosed on the motor vehicle contract; and
  - (c) The purchaser indicates his or her assent to the inclusion of such clause in the contract by initialing it.
- (8) It is an unfair or deceptive act or practice for a dealer to represent that a motor vehicle offered for sale can or will be delivered on or about a specified date or within a specified time period when the dealer knows or should know that the vehicle cannot be delivered on such date or within such time or when the dealer has no information upon which such a representation could be reasonably based.
- (9) It is an unfair or deceptive act or practice for a dealer to fail to refund the full amount of a purchaser's deposit promptly when:
- (a) The purchaser cancels the motor vehicle purchase contract before it has been accepted by an authorized dealer representative;
  - (b) The dealer and the purchaser have agreed to make the contract subject to the purchaser's ability to obtain financing of his or her choice and the purchaser cannot obtain such financing after exerting reasonable efforts to do so;
  - (c) The dealer does not accept the contract;
  - (d) The dealer fails to deliver a motor vehicle to the purchaser which conforms to the terms of the contract; or
  - (e) The purchaser cancels the contract because the dealer has failed to deliver the vehicle to the purchaser within the time period specified in the contract, or, if no time period is specified, within eight weeks after the date of the contract, unless the delay is caused by acts beyond the control of the dealer and manufacturer.
- (10) It is an unfair or deceptive act or practice for a dealer to increase the price of a motor vehicle after the dealer has accepted an offer to purchase it, except:
- (a) The price of a new vehicle may be increased in an amount equal to any price increase imposed by the manufacturer which is the result of a law or regulation of the United States or the Commonwealth of Massachusetts which either requires the addition of new equipment to certain vehicles or changes approved transportation costs or existing tax rates, or in the case of foreign made vehicles, is due to a revaluation of the United States dollar; and
  - (b) A trade-in vehicle may be reappraised if the dealer has reason to believe that the vehicle has suffered any damage or serious mechanical deterioration prior to its delivery to the dealer or if parts or accessories, including tires, have been removed from the vehicle or replaced with parts or accessories of inferior quality.
- (11) It is an unfair or deceptive act or practice for any person who sells a motor vehicle to fail to execute an assignment and warranty of title for such vehicle in the space provided on the title certificate or on such other form as may be prescribed by the Registrar of Motor Vehicles and to mail or deliver such assignment to either the purchaser, the registrar or the secured party, as the case may be, on the day the vehicle is delivered to the purchaser.



5.04: continued

(12) It is an unfair or deceptive act or practice for a dealer who sells a used motor vehicle to fail to remove from such vehicle, before delivering it to the purchaser, all state safety inspection stickers which were affixed to the vehicle prior to its registration in the name of such purchaser.

(13) It is an unfair or deceptive act or practice for a dealer to fail:

(a) To acknowledge in writing, within three business days after being so notified, a purchaser's rejection of a motor vehicle made pursuant to M.G.L. c. 106, §§ 2-601; and,

(b) If the dealer has no reasonable basis in fact to believe that the purchaser is not entitled to reject the motor vehicle, to promptly refund any and all amounts paid on account of the purchase price thereof, including the trade-in vehicle or its value as stated on the sales contract, upon receipt of documents of title properly executed or otherwise endorsed; and,

1. A clear and marketable title to the vehicle, including all requisite instruments of transfer; or
2. A title which is clear and marketable except for liens which the purchaser has agreed may be discharged by an application of his refund.

(14) It is an unfair or deceptive act of practice for a dealer to fail:

(a) To acknowledge in writing, within three business days after being so notified, a purchaser's revocation of his or her acceptance of a motor vehicle made pursuant to M.G.L. c. 106, §§ 2-608; and,

(b) If the dealer has no reasonable basis in fact to believe that the purchaser is not entitled to revoke such acceptance, to promptly refund any and all amounts paid on account of the purchase price thereof, including the trade-in vehicle or its value as stated on the sales contract, provided that:

1. The vehicle has not been substantially altered from the condition it was in when the purchaser took possession of it excepting any alteration resulting from the condition for which acceptance of the automobile is being revoked and/or solely from normal use;
2. No accessory, component or item of equipment (including tires) has been removed or substituted for by any item of inferior quality than what was originally supplied or which results in a substantial impairment of the obligation of the manufacturer under an express warranty covering the vehicle;
3. All documents of title have been properly executed or otherwise endorsed; and,
4. The purchaser has delivered a clear and marketable title of the vehicle including all requisite instruments of transfer or a title which is clear and marketable except for liens which the purchaser has agreed may be discharged by an application of his refund.

The rights provided in 940 CMR 5.04(14) shall be in addition to and not exclusive of any rights of remedies available under applicable law.

(15) It is an unfair or deceptive act or practice for a dealer to use any words or phrases in connection with the retail sale of motor vehicles purchased primarily for personal, family or household purposes, which limit or imply a limitation on the implied warranties of merchantability and fitness for a particular purpose, including such phrases as "as is," "with all faults," and "50/50 warranty."

(16) It is an unfair or deceptive act or practice for a dealer who receives a written notice from the manufacturer of the existence of a defect in certain motor vehicles to fail to notify persons who purchased such vehicles from it about the information contained in the notice, unless those persons have already been notified by the manufacturer.

(17) It is an unfair or deceptive act or practice for a dealer, distributor, zone office or other authorized representative of a manufacturer who receives a written notice from the manufacturer of the existence of a defect in certain motor vehicles, to fail to inform any person who inquires about the defect of the information contained in the notice.

5.04: continued

(18) It is an unfair or deceptive act or practice for a dealer to fail to inform a purchaser on request of the name and address of the prior owner of the vehicle.

(19) It is an unfair or deceptive act or practice for a motor vehicle manufacturer or dealer or other person engaged in trade or commerce to fail to do the following:

- (a) display the RESALE VEHICLE NOTICE set forth below in a clear and conspicuous manner on the right front window of each vehicle which is offered for sale or distribution at retail or otherwise after having been returned to its manufacturer pursuant to M.G.L. c. 90, § 7N½;
- (b) obtain on a copy of such Resale Vehicle Notice the signature, and printed name and address of each purchaser of such motor vehicle;
- (c) provide each such purchaser with a legible copy of the Resale Vehicle Notice the purchaser signs, at the time s/he signs it, and with a copy of all such Resale Vehicle Notices previously executed by prior purchasers of that vehicle; and
- (d) retain a copy of all such Resale Vehicle Notices for four years from the date of execution of each.

(20) The Resale Vehicle Notice shall read as follows:

RESALE VEHICLE NOTICE

This is a used vehicle. It was originally sold on [Here insert the month, day, and year of sale.] The original owner returned this vehicle to the manufacturer because it contained one or more defects which the manufacturer was unable to repair adequately. This vehicle is now being resold.

Massachusetts law (M.G.L. c. 90, § 7N½) allows a consumer who buys a new motor vehicle to return the vehicle to its manufacturer if the vehicle has a defect which substantially impairs its use, market value or safety and which is not repaired after a reasonable number of attempts or within a certain period of time.

The original owner returned this vehicle to its manufacturer under this law, complaining of the following defects:

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_

Of the defects listed above, the following have been repaired:

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_

Massachusetts law entitles you to the name and address of the original owner of this vehicle. You can obtain this information from the seller on request. Note - If less than one year has expired since the date this vehicle was originally sold, and if it has traveled less than 15,000 miles, you as a buyer have warranty and repair rights, also required by M.G.L. c. 90, § 7N½. You should contact the Massachusetts Executive Office of Consumer Affairs and Business Regulation for detailed information

on your rights under this law.

5.04: continued

I ACKNOWLEDGE RECEIPT OF THIS NOTICE.

DATE: \_\_\_\_\_

\_\_\_\_\_  
(Buyer's Signature)

PRINT OR TYPE THE INFORMATION BELOW

\_\_\_\_\_  
(Buyer's Name)

\_\_\_\_\_  
(Street and No.)

\_\_\_\_\_  
(City or Town)

This notice is required by M.G.L. c. 90, § 7N½.

(21) A dealer, manufacturer or other person engaged in trade or commerce who purchases or acquires a motor vehicle previously purchased by a consumer pursuant to 940 CMR 5.04(19) and (20), shall no longer be subject to those sections unless he knows, or in the absence of negligence should know, that such motor vehicle was returned to its manufacturer pursuant to M.G.L. c. 90, § 7N½.

5.05: Repairs and Services

- (1) It is an unfair or deceptive act or practice for a repair shop to make or authorize to be made in any manner or by any means a statement which it knows to be or, in the exercise of reasonable care, should know to be untrue or misleading including, without limitation, the following types of statements:
  - (a) That repairs are necessary or desirable when such is not a fact;
  - (b) That a vehicle is in a dangerous condition or that a customer's continued use of a vehicle may be harmful to the customer or others when such is not a fact; or
  - (c) That repairs have been performed on a vehicle when such is not a fact.
  
- (2) It is an unfair or deceptive act or practice for a repair shop, prior to commencing repairs on a customer's vehicle, to fail to record in writing the following information:
  - (a) The name and address of the customer and a telephone number at which the customer may be reached;
  - (b) The date and approximate time the customer's vehicle was delivered to the repair shop;
  - (c) The year, make and registration number of the customer's vehicle;
  - (d) The odometer reading on the customer's vehicle; and
  - (e) The specific repairs requested by the customer, or, if the customer has not requested specific repairs, a brief description of the problems the customer has encountered with the vehicle which caused him to bring it to the repair shop.
  
- (3) It is an unfair or deceptive act or practice for a repair shop to charge a customer for any repairs on a customer's motor vehicle unless either:
  - (a) The repair shop has received written authorization signed by the customer listing the specific repairs to be performed and the total price to be paid for such repairs, including parts and labor; or
  - (b) The repair shop has received written authorization signed by the customer listing the specific repairs to be performed and the charges for such repairs, including parts and labor, are displayed in a clear and conspicuous manner on the premises of the repair shop; or
  - (c) If the repair shop is unable to obtain written authorization from the customer to perform specific repairs (as when the specific repairs to be performed on the vehicle are not known at the time the vehicle is delivered to the repair shop), the repair shop notifies the customer, prior to commencing any repairs, of the specific repairs to be performed on the vehicle and the total price to be charged the customer for such repairs, including parts and labor, and obtains the customer's authorization to perform such repairs; or

5.05: continued

(d) The repair shop has obtained, prior to commencing repair of the vehicle, a written waiver, in the following form, executed by the customer in a knowing, voluntary and intelligent manner:

Waiver

I understand that I have the right to know before authorizing any repairs what the repairs to my car will be and what their cost will be. You need not obtain approval from me for repairs or inform me prior to performing repairs what the repairs are or their cost, if the total amount for repairs does not exceed \$ . \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

Such waiver may be included as part of a repair order provided, however, that such waiver is printed in clear and conspicuous type and that its execution may only be accomplished by the customer's signature separate from that appearing elsewhere on the order.

(e) The provisions of 940 CMR 5.05(3) shall not be applicable if the customer brings his or her motor vehicle to the repair shop before or after its usual business hours, or, at the customer's request, repair services are rendered off the premises of the repair shop.

(4) It is an unfair or deceptive act or practice for a repair shop to fail to inform a customer, prior to obtaining oral or written authorization to perform repairs on the customer's vehicle, of the following information:

- (a) The conditions under which the repair shop may impose storage charges and the daily or hourly amount of such charges;
- (b) That the customer has a right to have any parts replaced by the repair shop returned to him or her at the completion of the repairs or to inspect such parts in the event the repair shop is required to return the replaced parts to the manufacturer or some other person under a warranty or rebuilding arrangement; and
- (c) The amount of any charge to the customer for an estimate or diagnosis.

For purposes of 940 CMR 5.00, a repair shop shall be deemed to have informed its customers of the information contained in 940 CMR 5.05(4)(a) through (c) if the repair shop displays such information in a clear and conspicuous manner on the repair shop's premises.

(5) It is an unfair or deceptive act or practice for a repair shop which receives any oral authorization from a customer (whether such authorization is to perform certain repairs, to proceed with repairs even at an increased cost, to extend the time during which repairs may be performed, or any other type of authorization) to fail to maintain written records containing the following information:

- (a) The date and time the authorization was received;
- (b) The name of the repair shop employee receiving the oral authorization and the name of the person making the authorization;
- (c) A statement of the exact authorization received; and
- (d) If the authorization was received over the telephone and the repair shop placed the call, the telephone number called.

(6) It is an unfair or deceptive act or practice for a repair shop to fail to complete repairs on a motor vehicle on the day the vehicle is delivered to the repair shop by the customer unless the customer is informed of and consents to a further delay or the repair shop can show that the delay was caused by circumstances beyond its control and which could not have been reasonably anticipated.

5.05: continued

(7) It is an unfair or deceptive act or practice for a repair shop which discovers in the course of repairing a customer's vehicle that the vehicle needs repairs other than those authorized by the customer, or that the price for performing such repairs will exceed either the price authorized by the customer or the price noted on a posted schedule of repair charges by more than \$10.00, to fail to inform the customer of such fact and to obtain the customer's authorization to continue with the repair work before proceeding with the repairs.

(8) It is an unfair or deceptive act or practice for a repair shop to fail to remedy promptly, at no charge to the customer, any repairs performed by it on the customer's vehicle which were not performed in a good and workmanlike manner in accordance with accepted trade standards.

(9) It is an unfair or deceptive act or practice for a repair shop to fail to provide to a customer, at the completion of the repair work performed on the customer's vehicle, including warranty repair work, a dated written bill containing the following information:

- (a) The name and address of the customer and the repair shop;
- (b) The date the customer's vehicle was delivered to the repair shop;
- (c) The year, make and registration number of the customer's vehicle and the odometer reading of the vehicle on the date it was delivered to the repair shop;
- (d) An itemized list of the repairs performed on the customer's vehicle;
- (e) A list of the parts supplied to the customer by name and number, the price charged to the customer for each such part, and the total amount charged to the customer for parts;
- (f) If any part supplied was not new, a statement as to whether it was used, reconditioned or rebuilt;
- (g) The number of hours of labor charged for the repair work, a designation of such hours as actual hours worked or flat-rate hours, the price charged to the customer for each such hour and the total amount charged to the customer for labor; and
- (h) The total amount charged to the customer for parts and labor.

If the price charged to the customer for the repair work is a flat charge for the particular repair which was included in a schedule of charges posted in a clear and conspicuous manner on the premises of the repair shop at the time the vehicle was delivered, the repair shop need not list the price of each part supplied, the number of hours charged or the charge for each hour of labor.

(10) It is an unfair or deceptive act or practice for a repair shop to charge a customer for repairs which have not actually been performed.

(11) It is an unfair or deceptive act or practice for a repair shop to fail or refuse to provide to a customer a copy of any document signed by the customer either at the time the document is signed or at the completion of the repair work.

(12) It is an unfair or deceptive act or practice for a repair shop to use a customer's vehicle for any purpose other than a test drive or delivery to the customer unless the express written authorization of the customer has been obtained in advance.

5.06: Severability

If any provision of 940 CMR 5.00 or the application of such provision to any person or circumstance is held to be invalid, the validity of the remainder of 940 CMR 5.00 and the applicability of such provision to other persons or circumstances shall not be affected thereby.

REGULATORY AUTHORITY

940 CMR 5.00: M. G. L. c. 93A, § 2(C).