

1 **R877-23V-7. Misleading Advertising Pursuant to Utah Code Ann. Section 41-3-210.**

2 (1)(a) "Advertisement" means any oral, written, graphic, or pictorial statement  
3 made that concerns the offering of a motor vehicle for sale or lease.

4 (b) "Advertisement" includes any statement or representation:

5 (i) made in a newspaper, magazine, electronic medium, or other publication;

6 (ii) made on radio or television;

7 (iii) appearing in any notice, handbill, sign, billboard, banner, poster, display,  
8 circular, pamphlet, letter, or other printed material;

9 (iv) contained in any window sticker or price tag; ~~and~~or

10 (v) in any oral statement.

11 (c) "Advertisement" includes the terms "advertise" and "advertising".

12 (d) "Advertisement" does not include:

13 (i) a statement made solely for the purpose of obtaining motor vehicle financing or  
14 a motor vehicle title; or

15 (ii) hand written negotiation sheets between a dealer and a customer of the dealer.

16 (2) Violation of this section constitutes a violation of licensing prohibitions and  
17 requirements under [any of the following standards of practice for the advertising and  
18 selling of motor vehicles is a violation of] Section 41-3-210.

19 (a) Accuracy. Any advertised statements and offers about a motor vehicle as to  
20 year, make, model, type, condition, equipment, price, trade-in-allowance, terms, ~~and set~~  
21 ~~forth,~~or other similar information, shall be clearly set forth and based upon facts.

22 (b) Bait. Bait advertising and ~~bait and switch~~ selling practices may not be used.

23 (i) [A] Except as provided in Subsections (2)(b)(ii) and (iii), a motor vehicle  
24 advertised at a specific price shall be in the possession of the advertiser at the address  
25 given.

26 (ii) A new motor vehicle that is in transit to the advertiser at the address given, shall  
27 be considered to be in the possession of the advertiser if the advertiser is a dealer of that  
28 make of new motor vehicle.

29 (iii) A used motor vehicle that is in transit to the advertiser at the address given,  
30 shall be considered to be in the possession of the advertiser if the advertiser produces,  
31 upon request by any employee of the division, proof of purchase for the advertised vehicle  
32 establishing a date of purchase prior to the date of the advertisement.

33 (iv)(A)[H] An advertised vehicle shall be willingly shown, demonstrated and sold.

34 (B) If an advertised vehicle is sold, the advertiser shall, upon request of any  
35 prospective purchaser, peace officer, or employee of the division, show sales records of  
36 the advertised motor vehicle.

37 (v) If an advertisement contains a picture of a motor vehicle and a price, the motor  
38 vehicle pictured shall be a similar model with similar options and accessories as the  
39 advertised motor vehicle.

40 (c)(i)~~(A)~~ Price. ~~When~~ If the price or payment of a motor vehicle is quoted, the  
41 motor vehicle shall be clearly identified as to make, year, model and if new or used.

42 (ii) Except as provided in Subsection (c)(i)~~(B)~~(iii), the advertised price of a motor  
43 vehicle shall ~~must~~ include charges that the customer ~~must~~ shall pay for the motor  
44 vehicle, including any charges for freight, ~~or~~ destination ~~charges~~, dealer preparation,  
45 ~~and~~ dealer handling, or any non-optional items installed on the vehicle at the time of the  
46 advertisement.

47 ~~(B)~~(iii) The following ~~fees~~ amounts are not required to be included in the  
48 advertised price that the customer ~~must~~ shall pay for the motor vehicle:

49 ~~(H)~~(A) dealer ~~document~~ documentary service fees;

50 ~~(H)~~(B) if optional, charges for undercoating, ~~or~~ rustproofing, window etching,  
51 window tint, an alarm system, or any other similar item; ~~fees; and~~

52 ~~(H)~~(C) taxes or fees required by the state, ~~or~~ a county, or a local jurisdiction,  
53 including sales and use taxes, ~~tax,~~ titling and registration fees, safety and emission fees,  
54 and waste tire recycling fees~~[-]~~ or;

55 (D) temporary permit fees.

56 ~~(ii) In addition to other advertisements, this pertains to price statements such as~~  
57 ~~"\$..... Buys".]~~

58 ~~(iii)~~(iv) ~~When~~ If "list", "sticker", or similar words ~~[of similar import]~~ are used in an  
59 advertisement, ~~they~~ the words may refer only to the manufacturer's suggested retail price.

60 (v) If a supplementary price sticker is used, the advertised price ~~must~~ shall include  
61 all items listed on the supplementary sticker.

62 ~~(iv) If the customer requests and receives a temporary permit, the temporary~~  
63 ~~permit fee need not be included in the advertised price.]~~

64 (d) Savings and Discount Claims. Because the intrinsic value of a used motor  
65 vehicle is difficult to establish, specific claims of savings may not be used in an  
66 advertisement. This includes statements such as, "Was priced at \$....., now priced at \$....."

67 (i) The word "wholesale" may not be used in retail motor vehicle advertising.

68 (ii) When a motor vehicle advertisement contains an offer of a discount on a new  
69 motor vehicle, the amount of the discount must be stated by reference to the  
70 manufacturer's suggested retail price of the motor vehicle.

71 (e)(i) Down Payments. The amount of the down payment may not be stated in a  
72 manner that suggests that ~~it~~ the down payment is the selling price of the motor vehicle.

73 (ii) If an advertisement states "You can buy with no money down", or uses similar  
74 language, ~~[terms of similar import,]~~ the customer must be able to leave the dealership with  
75 the motor vehicle without ~~[making any outlay of]~~ paying any money.

76 (f) Trade-in Allowance. ~~[Statements representing that no other dealer grants~~  
77 ~~greater allowances for trade-ins may not be used.]~~

78 (i) A specific trade-in amount or range of trade-in amounts may not be used in  
79 advertising.

80 (ii) An advertiser may not assert that a trade-in will be paid off regardless of what is  
81 owed on the vehicle.

82 (g)(i)(A) Finance. The phrases, "no finance charge", "no carrying charge", or  
83 similar expressions may not be used ~~[when]~~if there is a charge for placing ~~[the]~~a  
84 transaction on a time payment basis.

85 ~~(B)[Statements]~~ A statement representing or implying that no prospective credit  
86 purchaser will be rejected because of inability to qualify for credit, such as "we accept all  
87 credit applications,"~~;~~ may not be used.

88 ~~(B)~~(ii) If the amount of the advertised payment changes during the term of the  
89 loan, both the payments and the terms of the loan ~~[must]~~shall be disclosed together.

90 ~~[(ii) The phrase "we will pay off your trade no matter what you owe" may not be~~  
91 ~~used.]~~

92 (h)(i) Unpaid Balance and Repossessions. The term "repossessed" may only be  
93 used ~~[only]~~ to describe a motor vehicle ~~[vehicles]~~ that ~~[have]~~has actually been  
94 repossessed, ~~[from a purchaser. Advertisers offering repossessed motor vehicles for sale~~  
95 ~~may be required to offer proof of those repossessions.]~~

96 (ii) The division may require an advertiser that offers a repossessed motor vehicle  
97 for sale to provide proof that the motor vehicle was repossessed.

98 (iii) The unpaid balance shall be the full selling price unless otherwise stated.

99 (i) Current Used. ~~[When]~~if a used motor vehicle, as defined by Section 41-3-102~~;~~  
100 ~~of a current series]~~ is advertised, the first line of the advertisement ~~[must]~~shall:

101 (ii) contain the term "used," "pre-owned," "certified used," "certified pre-owned,"  
102 ~~[word "used", "pre-owned", "certified used", "certified pre-owned",]~~ or other similar term  
103 used to designate a used motor vehicle~~;~~; or

104 (iii) [the text must] clearly indicate that the motor vehicle offered is used.

105 (j) ~~[Demonstrators, Executives' and Officials' Motor Vehicles.]~~ Demonstrator,  
106 Executive's, or Official's Motor Vehicle.

107 (i)(A) "Demonstrator motor vehicle" means a motor vehicle used by a new motor  
108 vehicle dealer or personnel of a new motor vehicle dealer for demonstrating performance  
109 ability.

110 (B) "Demonstrator motor vehicle" does not include a motor vehicle that:

111 (I) has previously been sold or leased to a member of the public; or

112 (II) is purchased or leased for personal use. [that has never been sold or leased to  
113 a member of the public.]

114 ~~[(ii) Demonstrator motor vehicles include motor vehicles used by new motor vehicle~~  
115 ~~dealers or their personnel for demonstrating performance ability but not motor vehicles~~  
116 ~~purchased or leased by dealers or their personnel and used as their personal motor~~  
117 ~~vehicles.]~~

118 ~~[(iii) A demonstrator motor vehicle may be advertised for sale only by a dealer~~  
119 ~~franchised for the sale of that make of new motor vehicle.]~~

120 ~~[(iv)](ii)(A) [An executive's or official's motor vehicle shall have]~~ "Executive's motor  
121 vehicle" or "official's motor vehicle" means a motor vehicle that has been used exclusively  
122 by an executive or official of the dealer's franchising manufacturer or distributor, or by an

123 executive or official of the franchised dealership. ~~[These motor vehicles may not have~~  
124 ~~been sold or leased to a member of the public prior to the appearance of the~~  
125 ~~advertisement.]~~

126 (B) "Executive's motor vehicle" or "official's motor vehicle" does not include a motor  
127 vehicle that:

128 (I) has previously been sold or leased to a member of the public; or

129 (II) is purchased or leased for personal use.

130 (iii) A demonstrator motor vehicle, executive's motor vehicle, or official's motor  
131 vehicle:

132 (A) may only be advertised for sale by a dealer who is franchised for the sale of that  
133 make of new motor vehicle; and

134 ~~[(v)](B) [Demonstrator's, executive's and official's motor vehicles] shall be clearly~~  
135 ~~and prominently advertised as a demonstrator motor vehicle, executive's motor vehicle, or~~  
136 ~~official's motor vehicle. [such. Advertisements shall include the year, make, and model of~~  
137 ~~the motor vehicle offered for sale.]~~

138 ~~[(k) Taxi cabs, Police, Sheriff, and Highway Patrol Motor Vehicles. Taxi cabs,~~  
139 ~~police, sheriff, and highway patrol motor vehicles shall be so identified. These motor~~  
140 ~~vehicles may not be described by an ambiguous term such as "commercial".]~~

141 ~~[(4)](k) Mileage Statements. [When]If an advertisement quotes the number of miles~~  
142 ~~or a range of miles a motor vehicle has been driven, the dealer [must]shall:~~

143 (i) have a properly completed odometer disclosure statement evidencing [written  
144 evidence] that the motor vehicle has not been operated in excess of the advertised  
145 mileage at the time of the advertisement; and[-]

146 ~~[(i) The evidence required by this section shall be the properly completed odometer~~  
147 ~~statement required by Section 41-1a-902.]~~

148 ~~(ii) [If a dealer chooses to advertise specific mileage or a range of miles a motor~~  
149 ~~vehicle has been driven, the dealer shall] upon request of any prospective purchaser,~~  
150 ~~peace officer, or employee of the division produce all documents in its possession~~  
151 ~~pertaining to that motor vehicle so that the mileage [can]may be readily verified.~~

152 ~~[(m)](l)(i) Underselling Claims. [Unsupported underselling claims may not be used.]~~  
153 ~~Underselling claims include [the following]:~~

154 (A) "our prices are guaranteed lower than elsewhere"[-];

155 (B) "money refunded if you can duplicate our values"[-];

156 (C) "we guarantee to sell for less"[-];

157 (D) "we sell for less"[-];

158 (E) "we purchase motor vehicles for less so we can sell them for less"[-];

159 (F) "highest trade-in allowance"[-];

160 (G) "we give [\$300] more in trade than any other dealers"[-]; or

161 (H) a claim similar to Subsections (2)(l)(i)(A) through (G).

162 (ii) Unsupported underselling claims may not be used.

163 (iii) Evidence of supported underselling claims [must]shall:

164 (A) be contained in the advertisement; and

165 (B) ~~shall~~ be produced upon request of a prospective purchaser, peace officer, or  
166 employee of the division.

167 ~~(m)~~ Free. The term "Free" or words of similar meaning, may be used in  
168 advertising only ~~when~~ if the advertiser is offering a gift that is not conditional on the  
169 purchase of any item of tangible personal property or service.

170 ~~(n)(i)~~ Driving Trial. "Driving trial" means an offer to allow a customer to drive a  
171 motor vehicle during a trial period and return the motor vehicle to the dealer at the  
172 conclusion of the trial period.

173 (ii) If a motor vehicle dealer offers a driving trial, the offer shall:

174 (A) be in writing;

175 (B) contain the terms and conditions of the offer;

176 (C) be provided to the customer before the customer takes possession of the motor  
177 vehicle that is subject to the driving trial;

178 (D) provide for the cancellation and return of signed agreements;

179 (E) provide for the refund of any money or other consideration paid to participate in  
180 the driving trial, unless the offer provides otherwise in writing; and

181 (F) provide for the return of the motor vehicle that was driven during the driving trial  
182 and for the return of the customer's vehicle. [A free driving trial means that the purchaser  
183 may drive the motor vehicle during the trial period and return it to the dealer within the  
184 specified period and obtain a refund of all moneys, signed agreements, or other  
185 considerations deposited and a return of any motor vehicle traded in. The exact terms and  
186 conditions of the free driving trial shall be set forth in writing and a copy given to the  
187 purchaser at the time of the sale.]

188 ~~(o)(i)~~ ~~Guaranteed. When words such as "guarantee", "warranty", or other~~  
189 ~~terms] Guarantee or warranty. An advertisement that uses a term such as "guarantee,"~~  
190 ~~"warranty," or other similar term implying protection, shall include [are used in advertising,]~~  
191 ~~an explanation of [the time] each term and coverage of the guarantee or warranty [shall be~~  
192 ~~given] including the time period of coverage of the guarantee or warranty, in clear and~~  
193 ~~concise language.~~

194 (ii) A motor vehicle dealer shall provide a [The] purchaser [shall be provided] with a  
195 written document stating the specific terms and coverage of a guarantee or warranty,  
196 including the time period of coverage of the guarantee or warranty.

197 ~~(p)~~ Name Your Own Deal. Statements ~~[such as]including~~ "write your own  
198 deal," "name your own price," "name your own monthly payments," "appraise your  
199 own motor vehicle," ~~[and phrases of similar import]~~ or similar statements may not be  
200 used.

201 ~~(q)(i)~~ Disclosure of Material Facts. ~~[Disclosures]~~ A disclosure of material  
202 [facts]fact that [are]is contained in [advertisements]an advertisement and that [involve  
203 types] involves a type of motor vehicle or motor vehicle transaction[vehicles and  
204 transactions] shall be made in a clear and conspicuous manner.

205 (ii) A disclosure under Subsection (2)(q)(i) may not include:

206 ~~(i)(A)~~ ~~[Fine]fine print;~~ ~~and~~

207 ~~(B) mouse print; [are not acceptable methods of disclosing material facts.]~~

208 (C) font or font size smaller than the smallest font or font size of the text used  
209 throughout the body of the advertisement; or

210 (D) use of an asterisks or other reference symbol to give additional information if  
211 the additional information contradicts or substantially changes the meaning of the  
212 advertised statements.

213 ~~[(ii) The disclosure must be made in a typeface and point size comparable to the~~  
214 ~~smallest typeface and point size of the text used throughout the body of the~~  
215 ~~advertisement.]~~

216 ~~[(iii) An asterisk may be used to give additional information about a word or term,~~  
217 ~~however, asterisks or other reference symbols may not be used as a means of~~  
218 ~~contradicting or substantially changing the meaning of any advertising statements.]~~

219 ~~[(iv)](iii) The speed of the words spoken in any verbal advertisement [must]shall be~~  
220 ~~constant throughout the advertisement.~~

221 ~~[(s)](r)(i) Lease. [When]If an advertisement relates to a lease, the advertisement~~  
222 ~~shall clearly state that the transaction advertised involves a lease. [must make it readily~~  
223 ~~apparent that the transaction advertised is a lease.]~~

224 ~~[(i)](ii) For purposes of this Subsection (2)(r), the term [The word] "lease" [must]~~  
225 ~~shall be used and shall appear in a prominent position in the advertisement in a [typeface~~  
226 ~~and point] font and font size [comparable to]as large as the largest text used to directly~~  
227 ~~advertise the motor vehicle.~~

228 ~~[(ii) Statements that do not use the term "lease" do not constitute adequate~~  
229 ~~disclosure of a lease.]~~

230 ~~[(iii) [Lease advertisements]A lease advertisement may not contain the phrase "no~~  
231 ~~down payment" or use a similar phrase if any payment [words of similar import if an outlay~~  
232 ~~of money] is required to lease the motor vehicle.~~

233 ~~(iv) Lease terms that are not available to the general public may not be included in~~  
234 ~~[advertisements]an advertisement directed at the general public.~~

235 ~~(v) Limitations and qualifications applicable to the lease terms advertised shall be~~  
236 ~~clearly and conspicuously disclosed.~~

237 ~~[(t)](s) Electronic Medium Disclosures. A disclosure appearing in any electronic~~  
238 ~~advertising medium [must]shall clearly and conspicuously feature all necessary~~  
239 ~~information in a manner that [can]may be read and understood if type is used, or that~~  
240 ~~[can]may be heard and understood if audio is used.~~

241 ~~[(u)](t) Invoice or Cost. The terms "invoice" or "factory invoice" may be used [as~~  
242 ~~long as]if the dealer is willing to show the factory invoice to the prospective buyer. The~~  
243 ~~term "cost" may not be used.~~

244 ~~[(v)](u) Rebate Offers. "Rebate", "cash rebate,"[;] or similar terms may be used~~  
245 ~~only [when]if it is clearly and conspicuously stated who is offering the rebate.~~

246 ~~[(w)](v) Buy-down Interest Rates. [No]A buy-down interest rate may not be~~  
247 ~~advertised unless the dealer discloses the amount of dealer contribution and states that~~  
248 ~~the contribution by the dealership may increase the negotiated price of the motor vehicle.~~

249 ~~[(\*)]~~(w) Special Status of Dealership. A motor vehicle advertisement may not  
250 falsely imply that the dealer has a special sponsorship, approval status, affiliation, or  
251 connection with the manufacturer that is greater or more direct than any other like dealer.

252 ~~[(\*)]~~(x)(i) Price Equaling. An advertisement that expresses a policy of matching or  
253 bettering ~~[competitor's prices]~~ a competitor's price shall fully disclose any conditions that  
254 apply and specify the evidence a consumer ~~[must]~~ shall present to take advantage of the  
255 offer.

256 (ii) The evidence described in Subsection (2)(x)(i), ~~[requirement]~~ may not place an  
257 unreasonable burden on ~~[the]~~ a consumer ~~[-; however, for example requiring]~~

258 (iii) It is not considered to be an unreasonable burden on a consumer to require the  
259 consumer to bring a written offer made to that consumer by an authorized representative  
260 of a dealership on a substantially similar motor vehicle ~~[would be considered reasonable.]~~

261 ~~[(z)]~~(y) Auction. "Auction," ~~[or]~~ "auction special," ~~[and]~~ or other similar terms ~~[of~~  
262 similar import] may be used only in connection with a motor ~~[vehicles]~~ vehicle offered or  
263 sold at a bona fide auction.

264 ~~[(aa)]~~(z) Layout and Type Size. The layout, headlines, illustrations, or ~~[type]~~ font  
265 size of a printed advertisement and the broadcast words or pictures of radio, television, or  
266 electronic medium advertisements may not convey or permit an erroneous or misleading  
267 impression as to a motor vehicle offered at a featured price. ~~[which motor vehicle or motor~~  
268 vehicles are offered at featured prices.]

269 ~~[(i) When an advertisement contains a picture of a motor vehicle along with a~~  
270 ~~quoted price, the motor vehicle pictured must be a similar model with similar options and~~  
271 ~~accessories as the motor vehicle advertised.]~~

272 ~~[(ii)]~~(aa)(i) "Clearly, conspicuously, and accurately" means:

273 (A) in bold print and in a font size that is capable of being read without  
274 unreasonable effort;

275 (B) in terms that are understandable to the buying public; and

276 (C) in close proximity to the qualified representation and not separated or buried by  
277 an asterisk in some other part of the advertisement.

278 (ii) An advertisement of the following ~~[No advertised offer, expression, or display of~~  
279 ~~price, terms, down payment, trade-in allowances, cash difference, savings, or other~~  
280 ~~material terms]~~ may not be misleading and any necessary qualifications shall be clearly,  
281 conspicuously, and accurately ~~[set forth]~~ stated to prevent misunderstanding~~[-]~~:

282 (A) an offer;

283 (B) an expression;

284 (C) a display of price;

285 (D) a term;

286 (E) a down payment;

287 (F) a trade-in allowance;

288 (G) a cash difference;

289 (H) a savings; or

290 (I) a term similar to Subsections (2)(aa)(i)(A) through (H).

291 ~~[(iii) Qualifying terms and phrases shall be clearly, conspicuously, and accurately~~  
292 ~~set forth as follows:]~~  
293 ~~[(A) in bold print and in type of a size that is capable of being read without~~  
294 ~~unreasonable extra effort;]~~  
295 ~~[(B) in terms that are understandable to the buying public; and]~~  
296 ~~[(C) in close proximity to the qualified representation and not separated or buried~~  
297 ~~by asterisk in some other part of the advertisement.]~~  
298 (bb)(i) An advertisement ~~[must]~~shall disclose ~~[that]~~if a vehicle ~~[is a salvage vehicle~~  
299 ~~with] has~~ a branded title or salvage certificate.  
300 (ii) The disclosure described in Subsection (2)(bb)(i) shall be made by inserting the  
301 terms "salvage certificate" or "branded title," as appropriate:  
302 ~~[(+)](A)~~ immediately following the year, make, and model of the advertised ~~[salvage]~~  
303 vehicle; and  
304 ~~[(+)](B)~~ in the same ~~[typeface and point]~~font and font size as ~~[the typeface and font~~  
305 ~~size] is~~ used to advertise the year, make, and model of the ~~[salvage]~~ vehicle.