

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY

REVIEW COMMISSION
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(All Comments submitted on this regulation will appear on IRRC's website)

APR 28 2023

Independent Regulatory
Review Commission

(1) Agency

Office of Attorney General

(2) Agency Number: 59

Identification Number: 001

IRRC Number: 3373

(3) PA Code Cite: 37 Pa. Code Ch. 301

(4) Short Title: Automotive Industry Trade Practices

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Sarah Frasch, Chief Deputy Attorney General, (717) 787-9707
sfrasch@attorneygeneral.gov

Secondary Contact: John Abel, Senior Deputy Attorney General, (717) 787-9707
jabel@attorneygeneral.gov

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
 Final Regulation
 Final Omitted Regulation

- Emergency Certification Regulation;
 Certification by the Governor
 Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The purpose of this rulemaking is to amend the Automotive Industry Trade Practices regulations (Auto Regulations) under the Unfair Trade Practices and Consumer Protection Law (UTPCPL). First, the proposed amendment modernizes the Auto Regulations' definition of "advertisement" to include electronic means. Second, the proposed amendment requires motor vehicle dealers to inspect the motor vehicles in their inventory at specified times. Finally, the proposed amendment requires motor vehicle dealers to make additional disclosures when selling a motor vehicle bearing certain unsafe conditions.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Section 3.1 of the UTPCPL, 73 P.S. § 201-3.1.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The proposed rulemaking is necessary to make explicit that advertisements for motor vehicles and motor vehicle goods and services must comply with the Auto Regulations across all media. The inspection and disclosure requirements are necessary to better inform both sellers and consumers of the faults present in a motor vehicle made available for sale.

The proposed rulemaking is in the public interest because it ensures that the parties to the sale of a motor vehicle and motor vehicle goods and services are more fully informed and not misled by unfair and deceptive advertisement. A consumer's knowledge that a motor vehicle bears certain unsafe conditions could have an incidental, positive effect on traffic safety by putting the consumer on notice that the motor vehicle should not be driven.

Compliant motor vehicle dealers would also benefit from increased consumer confidence that a transaction to purchase a motor vehicle will be fair and informed.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

The Federal Trade Commission (FTC) Used Motor Vehicle Trade Regulation Rule, 16 C.F.R. §§ 455.1, *et seq.*, addresses the sale of used motor vehicles. Under this Rule, it is a deceptive act or practice for a used vehicle dealer (1) to misrepresent the mechanical condition of a used vehicle; (2) to misrepresent the terms of any warranty offered in connection with the sale of a used vehicle; and (3) to represent that a used vehicle is sold with a warranty when the vehicle is sold without any warranty. 16 C.F.R. § 455.1(a). This Rule does not apply where a State requirement "affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this Rule." 16 C.F.R. § 455.6.

From the experience of investigating consumer complaints related to the sale of motor vehicles, OAG believes that more specificity is required regarding a used motor vehicle dealer's duties beyond a bar on misrepresenting mechanical conditions. Requiring motor vehicle dealers to disclose mechanical conditions that make the operation of a used motor vehicle unsafe will serve the compelling interest of keeping Pennsylvanians safe on the road.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This proposed regulation is comparable with the automobile advertising regulations of neighboring states. Maryland, New York and Delaware each require the disclosure of either certain defects, unsafe conditions, or substantial repair or body work. These requirements are comparable to the proposed requirement for motor vehicle dealers to disclose material conditions which substantially impair vehicle use or safety in addition to the specific conditions they are already required to disclose. While the proposed inspection regulation appears formally unique among Pennsylvania and its neighboring states, most motor vehicle dealers already perform a safety inspection on all motor vehicles within a week of their arrival into the dealer's inventory and most motor vehicles will accumulate fewer than 250 miles

before being sold. New Jersey requires a vehicle to meet all state inspection requirements prior to sale. As such, the proposed regulation is not expected to alter current industry practice and thus is not anticipated to affect Pennsylvania's ability to compete with other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This proposed regulation will not affect any other OAG regulations or those of other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The OAG conducted a public hearing on September 11, 2018, which was noticed in the Pennsylvania Bulletin published on August 11, 2018. Chad Marsar, Vice President of Legal & Regulatory Affairs for the Pennsylvania Automotive Association, testified at this hearing, restating his testimony in a letter sent to OAG on September 4, 2018. OAG also received written comments from Reg Evans, Executive Director of the Pennsylvania Independent Automobile Dealers Association (PIADA).

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

This regulation will affect businesses involved in the sale and advertisement of motor vehicles and motor vehicle goods and services, as well as the consumers involved in transactions with those businesses and subject to their advertisements.

This regulation is not anticipated to adversely affect small businesses. As stated in Paragraph 12, the inspection requirement harmonizes with current industry practice. Requiring motor vehicle dealers to disclose certain unsafe conditions on sales documents presents de minimis administrative work in return for a more fully informed transaction, a positive outcome for consumers and the market as a whole.

(16) List the persons, groups or entities, including small businesses that will be required to comply with the regulation. Approximate the number that will be required to comply.

All motor vehicle dealers, manufacturers, repair shops, and any business which advertises on behalf of the foregoing will be required to observe and comply with the proposed amendments to §§ 301.1 and 301.2(5) of the Auto Regulations. Only motor vehicle dealers will be required to comply with the proposed additions, §§ 301.2(5.1) and 301.4(9.1).

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

Through this regulation, participants and consumers in the market for motor vehicles will be protected from unscrupulous advertising practices over the internet. Consumers will be assured that vehicles they

purchase have been timely inspected for their safety, and will be notified by the motor vehicle dealer if the motor vehicle in question bears certain unsafe conditions, and for what reasons.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

As stated above, the only likely cost is de minimis administrative work related to the sale of some motor vehicles and perhaps an additional safety inspection in an extraordinary case. The benefits of clarifying the Auto Regulations and assuring and informing consumers outweigh any costs or adverse effects.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

No anticipated significant new costs to the regulated community associated with this rulemaking; nor are there any anticipated savings to that community.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

No anticipated costs and/or savings to local governments associated with this rulemaking.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

No anticipated costs and/or savings to the state government associated with this rulemaking.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Dealers will be required to develop and implement a means to disclose in writing the conditions required under § 301.2(5).

(22a) Are forms required for implementation of the regulation?

See above.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

Not applicable.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. **Not applicable.**

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A					
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A				

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

As described in Paragraphs 12 and 15 above, there is no significant adverse impact expected on small business.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

Not applicable.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The OAG considered the status quo and determined that modernization of the Auto Regulations' definition of "advertisement" is the least burdensome acceptable alternative.

The OAG considered both the status quo and requiring a safety inspection no more than thirty days prior to the sale of a vehicle, but by considering public comments decided that inspections upon a motor vehicle's introduction to a motor vehicle dealer's inventory and each in-inventory attainment of 500 miles would be the least burdensome acceptable alternative to ensure the sale of safe motor vehicles.

The OAG considered both the status quo and simply stating that an "As Is" disclaimer would be insufficient for the sale of an unroadworthy vehicle. OAG determined that in either case consumers were not being fully informed, and in the latter case that motor vehicle dealers did not have clear direction as to what written disclosure would be necessary. As such, requiring a list of unroadworthy conditions is the least burdensome acceptable alternative.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

The OAG considered the impact of this rulemaking on small businesses and determined that no significant adverse impact to small business is expected because the proposed regulation clarifies definitions, harmonizes with industry practice, and presents a de minimis administrative cost in a limited number of cases.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Not applicable.

(29) Include a schedule for review of the regulation including:

- A. The length of the public comment period:
30 days after publication of the proposed rulemaking in the *Pennsylvania Bulletin*.
- B. The date or dates on which any public meetings or hearings will be held: September 11, 2018
- C. The expected date of delivery of the final-form regulation: Spring 2023
- D. The expected effective date of the final-form regulation: Summer 2023
- E. The expected date by which compliance with the final-form regulation will be required: Fall 2023
- F. The expected date by which required permits, licenses or other approvals must be obtained: Not applicable

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The regulation will be reviewed for its effectiveness annually.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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APR 28 2023

Independent Regulatory
Review Commission

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: <u>Amy M. Elliott</u> (DEPUTY ATTORNEY GENERAL)</p> <p><small>Digitally signed by Amy M. Elliott DN: cn=Amy M. Elliott, o=PerseusName Office of Attorney General, ou=Chief Deputy Attorney General, email=ae Elliott@attorneygeneral.gov, c=US Date: 2023.04.24 10:51:49 -04'00'</small></p> <p><u>4/24/2023</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Office of Attorney General</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>59-001</u></p> <p>DATE OF ADOPTION: _____</p> <p><u><i>James A. Donahue III</i></u> BY: _____ JAMES A. DONAHUE, III</p> <p>TITLE <u>First Deputy Attorney General</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u><i>Sarah A. E. Frasca</i></u> SARAH A. E. FRASCH Chief Deputy Attorney General Director, Bureau of Consumer Protection Office of Attorney General</p> <p><u>3/14/2023</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> (Chief Counsel, Independent Agency) (Strike Inapplicable Title)</p> <p>Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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PROPOSED RULEMAKING

OFFICE OF ATTORNEY GENERAL

[37 PA. CODE CH. 301]

Automotive Industry Trade Practices; Notice of Proposed Rulemaking

[XX Pa.B.]
[Xday, Month xx, 20XX]

Title 37—Law Office of Attorney General 37 Pa. Code Ch. 301

The Office of Attorney General (OAG), through its Public Protection Division, proposes to amend 37 Pa. Code by amending Chapter 301 (relating to automotive industry trade practices) to read as set forth in Annex A.

A. Effective Date

This proposed rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed rulemaking, the primary contact is Sarah Frasch, Chief Deputy Attorney General, Bureau of Consumer Protection and the secondary contact is John Abel, Senior Deputy Attorney General, Bureau of Consumer Protection, Pennsylvania Office of Attorney General, Strawberry Square, 15th Floor, Harrisburg, PA 17120, (717) 787-9707. This proposed rulemaking is available on the OAG website at www.attorneygeneral.gov.

C. Statutory Authority

This rulemaking is proposed under the authority of section 3.1 of the Unfair Trade Practices and Consumer Protection Law (act) (73 P.S. § 201-3.1), regarding the statutory rulemaking authority of the OAG.

D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update

the OAG's unfair or deceptive acts or practices regulations. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposed rulemaking.

E. Summary of Proposed Rulemaking

1. Introduction

The OAG enforces and administers the act. The OAG has determined that it is necessary for the enforcement and the administration of the act to amend the existing automotive industry trade practices regulations to provide adequate protections to consumers regarding the inspection of motor vehicles and the written disclosure of certain attributes of a motor vehicle's roadworthiness.

2. Policy and Determination

The OAG has long taken the policy position that certain unfair or deceptive automotive industry market trade practices constitute unfair methods of competition and unfair or deceptive acts or practices in violation of the act.

Through the experience of investigation and litigation, the OAG has identified that motor vehicle dealers are increasingly utilizing electronic means to advertise the sale of particular motor vehicles and motor vehicle goods and services, a practice which is not explicitly captured in the automotive industry trade practices regulations' current definition of "advertisement." The OAG has further identified that the disclosures and inspections which motor vehicle dealers are currently required to perform are insufficient to fully inform consumers that they are purchasing motor vehicles bearing certain unsafe conditions. The OAG has determined that this proposed rulemaking under the act will remedy these vacuums under the state law.

3. Automotive Industry Trade Practices

The OAG has adopted the staff recommendation to make certain amendments to the Automotive Industry Trade Practices regulations. First, Section 301.1 (definitions) includes electronic means in the definition of "advertisement." Second, Section 301.2(5) (relating to written disclosures) is amended to include an additional condition which the advertiser or seller of a motor vehicle must disclose if they know or should know it exists in the motor vehicle: "Any other material condition which substantially impairs vehicle use or safety." The section is additionally amended to require that this disclosure be provided in writing.

Third, Section 301.2(5.1) (relating to advertising and sales presentation requirements) is created. It requires a motor vehicle dealer and/or a designated certified inspection mechanic to inspect a motor vehicle not

more than 30 days after it enters the motor vehicle dealer's inventory and, thereafter, not more than 30 days after each time the motor vehicle accumulates 500 miles before advertising it or offering it for sale. This section does not apply to sales of motor vehicles between two motor vehicle dealers.

Finally, Section 301.4(9.1) (relating to general provisions— motor vehicle dealer) clarifies that compliance with section 301.2(5) (relating to written disclosures) is still required notwithstanding any use of the term, AS IS, under section 301.4(9) (relating to disclaiming warranty). The selling motor vehicle dealer must describe the vehicle as being sold "As-Is," and list in writing any conditions listed in Section 301.2(5) present in the vehicle.

These amendments have been prepared in light of comments previously submitted by interested parties, the Pennsylvania Automotive Association and the Independent Automobile Dealers Association of Pennsylvania.

4. *Basic Policy Choice*

"The operative provision of the Unfair Trade Practices and Consumer Protection Law provides: 'Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce. . . are hereby declared unlawful.'" 73 P.S. § 201-3 (emphasis added). *Gabriel v. O'Hara*, 368 Pa. Super. 383, 391, 534 A.2d 488, 492 (1987). The operative provision of the act provides the Legislature's basic policy choice which guides the OAG's proposed rulemaking. The OAG proposes that Chapter 301 be amended to read as set forth in Annex A.

F. *Paperwork*

Generally, the proposed rulemaking will not increase paperwork and will not create new paperwork requirements. The proposed rulemaking will have a de minimis impact on paperwork for class action representatives purporting to settle and release OAG claims under the act.

G. *Benefits, Costs and Compliance*

Through this proposed rulemaking, consumers will be further protected from unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce by unscrupulous businesses. The clear articulation of this unfair or deceptive trade practices regulation will make the regulation easier to understand by the public and will facilitate compliance.

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no significant new costs on the private sector or the general public.

H. *Sunset Review*

The OAG is not establishing a sunset date for these regulations because they are needed for the OAG to carry out its statutory authority and because the OAG will periodically review these regulations for their effectiveness.

I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 45.5(a)), on MONTH xx, 20XX, the OAG submitted a copy of this Proposed Rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Judiciary Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the OAG, the General Assembly and the Governor.

J. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this Proposed Rulemaking to the Bureau of Consumer Protection, Office of Attorney General, Strawberry Square, 15th Floor, Harrisburg, PA 17120 within 30 days after publication of this Proposed Rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. A public hearing occurred on September 11, 2018 pursuant to Section 3.1 of the act.

Comments also may be submitted by e-mail to consumers@attorneygeneral.gov. If an acknowledgement of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

MICHELLE A. HENRY,

Attorney General

Annex A
TITLE 37. LAW

PART V. [BUREAU OF CONSUMER PROTECTION]UNFAIR TRADE PRACTICES

CHAPTER 301. AUTOMOTIVE INDUSTRY TRADE PRACTICES

§ 301.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Advertisement—An oral, written or graphic statement which offers for sale a particular motor vehicle or motor vehicle goods and services or which indicates the availability of a motor vehicle or motor vehicle goods and services, including a statement or representations made in a newspaper, periodical, pamphlet, circular, other publication or on radio or television; contained in a notice, handbill, sign, billboard, poster, bill, catalog or letter; **placed on a website, in a mobile application, on a social media outlet, or on any other electronic platform;** or printed on or contained in a tag or label which is attached to merchandise.

§301.2. Advertising and sales presentation requirements.

With respect to an advertisement or sales presentation offering or making available for sale a new or used motor vehicle or maintenance service or repair on a new or used motor vehicle, the following will be considered unfair methods of competition and unfair or deceptive acts or practices:

(5) The representation in an advertisement or sales presentation that a motor vehicle or motor vehicle goods or services are of a particular style, model, standard, quality or grade if they are of another or if the representation conflicts with a written notice or disclosure required under this chapter. For the purposes of this chapter, a motor vehicle which is offered for sale is represented to be roadworthy, and the advertiser or seller shall disclose **in writing** prior to sale the following conditions if the advertiser or seller knows or should know that the conditions exist in the motor vehicle:

- (i) Frame bent, cracked or twisted.
- (ii) Engine block or head cracked.
- (iii) Vehicle unable to pass State inspection.
- (iv) Transmission damaged, defective or so deteriorated as to require replacement.
- (v) Vehicle flood damaged.
- (vi) Differential damaged, defective or so deteriorated as to require replacement.

(vii) Any other material condition which substantially impairs vehicle use or safety.

(5.1) Except as to a sale of a motor vehicle to another motor vehicle dealer, the advertisement or offering of a motor vehicle for sale unless a certified inspection mechanic designated by the selling motor vehicle dealer has inspected the motor vehicle in accordance with 67 Pa. Code § 175:

(i) Not more than thirty days after the motor vehicle comes into the inventory of the selling motor vehicle dealer or advertiser; and

(ii) Not more than thirty days after each time the motor vehicle accumulates 500 miles while in the inventory of the selling motor vehicle dealer or advertiser.

(6) The making of a representation or statement of a fact in an advertisement or sales presentation if the advertiser or salesperson knows or should know that the representation or statement is false and misleading or if the advertiser or salesperson does not have sufficient information upon which a reasonable belief in the truth of the representation could be based.

§ 301.4. General provisions—motor vehicle dealer.

(a) With regard to a motor vehicle dealer, the following will be considered unfair methods of competition and unfair or deceptive acts or practices:

(9.1) In any instance where a motor vehicle is not roadworthy at the time the motor vehicle is offered for sale, using the term “AS IS” as set forth in this section does not satisfy the written disclosure requirement in Section 301.2(5) of this chapter. The written contract, required under Section 301.4(a)(1) of this chapter for the sale of a motor vehicle, must instead include, in a clear and conspicuous manner on the face of the document, information that the motor vehicle is sold “As-Is” and a list of the conditions, as set forth in Section 301.2(5) of this chapter, present in the motor vehicle.

Stephen Hoffman

From: Laudenslager, Cara
Sent: Friday, April 28, 2023 9:00 AM
To: Wolfe, Mark W.
Subject: [EXTERNAL] RE: PROPOSED REGULATION - Office of Attorney General

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Mark,

Received.

Thank you,
Cara

Cara Laudenslager
Special Assistant
Office of Senator Lisa Baker
717-787-7428
claudenslager@pasen.gov
www.senatorbaker.com

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APR 28 2023

Independent Regulatory
Review Commission

From: Wolfe, Mark W. <mwolfe@attorneygeneral.gov>
Sent: Friday, April 28, 2023 8:52 AM
To: Laudenslager, Cara <claudenslager@pasen.gov>
Subject: FW: PROPOSED REGULATION - Office of Attorney General
Importance: High

ⓘ CAUTION : External Email ⓘ

Good morning Cara—

I sent the below to Ryan Shovlin, but his automatic reply referred me to you. I would appreciate if you could acknowledge receipt of this proposed regulation on Senator Baker's behalf.

Sincerely,
Mark Wolfe

From: Wolfe, Mark W.
Sent: Friday, April 28, 2023 8:47 AM
To: Shovlin, Ryan <rshovlin@pasen.gov>
Cc: Abel, John <jabel@attorneygeneral.gov>
Subject: PROPOSED REGULATION - Office of Attorney General
Importance: High

Dear Ryan:

Per my prior communication, please see attached a proposed regulation amending the Office of Attorney General's Automotive Industry Trade Practices regulations. Under IRRC rules for the delivery of regulations, this proposal must be delivered to the Chairs of the appropriate committees in the General Assembly, the LRB and, finally, IRRC on the same day. With that in mind, I kindly ask that you acknowledge your receipt of this email on behalf of Senator Baker so that I can attach your response to my final transmittal to IRRC. Please don't hesitate to reach out if you have any questions.

Thank you,
Mark Wolfe

Mark W. Wolfe
Deputy Attorney General
Pennsylvania Office of Attorney General
Strawberry Square, 15th Floor
Harrisburg, PA 17120
Office: (717) 787-9707
Direct: (717) 772-3558
Cell: (717) 562-2922
mwolfe@attorneygeneral.gov

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Click [here](#) to report this email as spam.

Stephen Hoffman

From: Smith, Timothy
Sent: Friday, April 28, 2023 9:06 AM
To: Wolfe, Mark W.
Cc: Abel, John; Deery, Michael
Subject: [EXTERNAL] RE: PROPOSED REGULATION - Office of Attorney General

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mark:

Mike has forwarded me a copy of the proposed regulation. Please use this email as acknowledgment that Senator Santarsiero's office has received a copy of the proposed regulation.

RECEIVED

Thank you,

APR 28 2023

Timothy P. Smith
Democratic Executive Director and Legal Counsel
Pennsylvania Senate Judiciary Committee
Chairman Steve Santarsiero
(717) 787-7305

Independent Regulatory
Review Commission

From: Deery, Michael <Michael.Deery@pasenate.com>
Sent: Friday, April 28, 2023 8:57 AM
To: Wolfe, Mark W. <mwolfe@attorneygeneral.gov>
Cc: Abel, John <jabel@attorneygeneral.gov>; Smith, Timothy <Timothy.Smith@pasenate.com>
Subject: RE: PROPOSED REGULATION - Office of Attorney General

Thanks mark. Adding Tim smith. He is the new ED for Senator Judiciary.

From: Wolfe, Mark W. <mwolfe@attorneygeneral.gov>
Sent: Friday, April 28, 2023 8:47 AM
To: Deery, Michael <Michael.Deery@pasenate.com>
Cc: Abel, John <jabel@attorneygeneral.gov>
Subject: PROPOSED REGULATION - Office of Attorney General
Importance: High

■ EXTERNAL EMAIL ■

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Sincerely,
Mark Wolfe

Mark W. Wolfe
Deputy Attorney General
Pennsylvania Office of Attorney General
Strawberry Square, 15th Floor
Harrisburg, PA 17120
Office: (717) 787-9707
Direct: (717) 772-3558
Cell: (717) 562-2922
mwolfe@attorneygeneral.gov

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Stephen Hoffman

From: Clawges, Timothy
Sent: Friday, April 28, 2023 9:14 AM
To: Wolfe, Mark W.
Cc: Abel, John
Subject: [EXTERNAL] Re: PROPOSED REGULATION - Office of Attorney General

Follow Up Flag: Follow up
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got it. will take a look .

From: Wolfe, Mark W. <mwolfe@attorneygeneral.gov>
Sent: Friday, April 28, 2023 8:46 AM
To: Clawges, Timothy <TClawges@pahouse.net>
Cc: Abel, John <jabel@attorneygeneral.gov>
Subject: PROPOSED REGULATION - Office of Attorney General

Dear Timothy:

Per my prior communication, please see attached a proposed regulation amending the Office of Attorney General's Automotive Industry Trade Practices regulations. Under IRRC rules for the delivery of regulations, this proposal must be delivered to the Chairs of the appropriate committees in the General Assembly, the LRB and, finally, IRRC on the same day. With that in mind, I kindly ask that you acknowledge your receipt of this email on behalf of Representative Briggs so that I can attach your response to my final transmittal to IRRC. Please don't hesitate to reach out if you have any questions.

Sincerely,
Mark Wolfe

Mark W. Wolfe
Deputy Attorney General
Pennsylvania Office of Attorney General
Strawberry Square, 15th Floor
Harrisburg, PA 17120
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Direct: (717) 772-3558
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Independent Regulatory
Review Commission

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Stephen Hoffman

From: Thomas Dymek
Sent: Friday, April 28, 2023 1:52 PM
To: Wolfe, Mark W.
Subject: [EXTERNAL] Re: PROPOSED REGULATION - Office of Attorney General

Follow Up Flag: Follow up
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Received.

From: Wolfe, Mark W. <mwolfe@attorneygeneral.gov>
Sent: Friday, April 28, 2023 8:46 AM
To: Thomas Dymek <Tdymek@pahousegop.com>
Cc: Abel, John <jabel@attorneygeneral.gov>
Subject: PROPOSED REGULATION - Office of Attorney General

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APR 28 2023

Independent Regulatory
Review Commission

Dear Mr. Dymek:

Per my prior communication, please see attached a proposed regulation amending the Office of Attorney General's Automotive Industry Trade Practices regulations. Under IRRC rules for the delivery of regulations, this proposal must be delivered to the Chairs of the appropriate committees in the General Assembly, the LRB and, finally, IRRC on the same day. With that in mind, I kindly ask that you acknowledge your receipt of this email on behalf of Representative Kauffman so that I can attach your response to my final transmittal to IRRC. Please don't hesitate to reach out if you have any questions.

Sincerely,
Mark Wolfe

Mark W. Wolfe
Deputy Attorney General
Pennsylvania Office of Attorney General
Strawberry Square, 15th Floor
Harrisburg, PA 17120
Office: (717) 787-9707
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Stephen Hoffman

From: Bulletin <bulletin@palrb.us>
Sent: Friday, April 28, 2023 9:33 AM
To: Wolfe, Mark W.
Cc: Abel, John; Adeline E. Gaydosh
Subject: [EXTERNAL] Re: PROPOSED REGULATION - Office of Attorney General

Follow Up Flag: Follow up
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Good morning, Mark,

Thank you for sending this proposed rulemaking. We have the fiscal note and it is scheduled for publication in the 5/13 issue of the *Pennsylvania Bulletin*.

Adeline

Adeline Gaydosh | Legal Assistant
agaydosh@palrb.us | 717.783.3984
Legislative Reference Bureau
Pennsylvania Code & Bulletin Office
647 Main Capitol Building
Harrisburg, PA 17120

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APR 28 2023

Independent Regulatory
Review Commission

From: Wolfe, Mark W. <mwolfe@attorneygeneral.gov>
Sent: Friday, April 28, 2023 8:45 AM
To: Bulletin <bulletin@palrb.us>
Cc: Abel, John <jabel@attorneygeneral.gov>
Subject: PROPOSED REGULATION - Office of Attorney General

Dear Director DeLiberato:

Please find attached a Word version of a proposed regulation amending the Office of Attorney General's Automotive Industry Trade Practices regulations, submitted for publication in the next available edition of the *Pennsylvania Bulletin*. Per IRRC rules, this proposal must be delivered to IRRC today with an acknowledgement that you have received it. I kindly request that you respond to this email to that effect. Please don't hesitate to reach out if you have any questions.

Sincerely,
Mark Wolfe

Mark W. Wolfe
Deputy Attorney General
Pennsylvania Office of Attorney General

Strawberry Square, 15th Floor
Harrisburg, PA 17120
Office: (717) 787-9707
Direct: (717) 772-3558
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