



Title 37. Law

Chapter 301. Automotive Industry Trade Practices

Notice of Proposed Regulation

Proposed Regulation #59-001 (IRRC #3373)**RE: Proposed Rulemaking – 37 PA. CODE Chapter 301**

Since 1919 the Pennsylvania Automotive Association (“PAA”) has represented the franchised, new vehicle dealers doing business in Pennsylvania. Currently, there are approximately 950 such dealers in the Commonwealth.

We appreciate very much the opportunity to comment and provide additional operational insight into the Office of Attorney General’s (OAG) draft proposed rulemaking that has been recirculated on April 28, 2023 and published on May 13th. Comments on the regulations are outlined below, and we appreciate your additional consideration.

§301.2(5) Advertising and sales presentation requirements.

This section of the proposed rulemaking currently requires a dealer that is selling a motor vehicle to disclose specific conditions that exist on a motor vehicle prior to sale. The proposed language was added to require a dealer to disclose *“any other material condition which substantially impairs vehicle use or safety”*.

PAA is not opposed to additional disclosures, nonetheless, PAA is requesting that the OAG specifically define the “material conditions which substantially impair the vehicle use and safety” that are not currently addressed by the other six required disclosures in this section.

§301.2(5.1) Advertising and sales presentation requirements.

This section of the proposed rulemaking would prevent a dealer from selling or leasing a vehicle unless the vehicle is inspected, by a certified inspection mechanic, no more than thirty days after each time the motor vehicle accumulates 500 miles while in inventory.

PAA is a staunch advocate for the Pennsylvania Safety Inspection Program (hereinafter ‘program’). PAA applauds the efforts of the OAG to have vehicles safety inspected prior to consumer sales, but cannot support a safety inspection each time the motor vehicle accumulates 500 miles while in inventory. As illustrated below, dealers and their customers would be adversely affected due to the practical implementation and increased cost of complying with this regulation.

Inconsistent Pennsylvania safety inspection term

The current program requires vehicles to be inspected once every twelve months. This regulation would have the effect of making a safety inspection for vehicles in a dealer’s inventory valid for only 500 miles and not twelve months as specifically provided for in the current program.

Multiple unneeded inspections increase cost, result in delivery delays

As stated in our prior comments dated September 4, 2018, new vehicle dealers have both new and used vehicles in their inventory. When new or used vehicles arrive at a new vehicle dealership, dealers safety

inspect the vehicles typically within the first week of their arrival to ensure the vehicles are in a safe operating condition for customer test drives. The "average new vehicle" will be in a dealer's inventory for approximately 70 days prior to a retail sale to a customer and will accumulate less than 250 miles. The "average used vehicle" will be in a dealer's inventory for approximately 60 days prior to a retail sale to a customer and will accumulate less than 250 miles. These examples, however, are just averages. Dealers will have vehicles in their inventory used for test drives and as demonstrators accumulating over 500 miles. To require a dealer to safety inspect a new or used vehicle multiple times prior to delivery to the customer as a result of the vehicle accumulating 500 miles will delay the delivery (potentially days) and add additional cost to the customer with no additional safety benefit to the customer. Dealers would be required to track and document the mileage of every vehicle on their lot on a daily basis, with some dealerships having hundreds of vehicles, to be certain that safety inspections are completed at the appropriate time.

PAA supports the premise that all vehicles in a dealer's inventory should be inspected in accordance with 67 Pa. Code §175 within 30 days after the motor vehicle comes into the inventory of the dealer. In accordance with 67 Pa. Code §175 that vehicle should not be required to be reinspected until the inspection expiration. To arbitrarily require a reinspection every time a vehicle accumulates 500 miles would add costs to the dealership and to the customer, delay delivery and would be in opposition with the current inspection requirements. 67 Pa. Code §175.

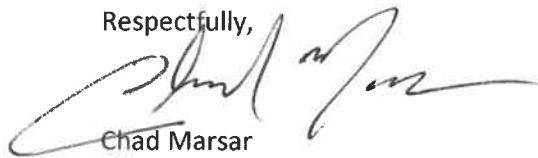
PAA would suggest that if the selling dealer performs a safety inspection on the vehicle after it comes into its inventory within the thirty-day time limit, the dealer would not need to perform a subsequent safety inspection on the vehicle (new or used) prior to the retail sale. PAA would suggest the proposed regulation be amended as follows:

"(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.~~*

When considering the promulgation of this proposed rulemaking, PAA, on behalf of all new vehicle dealers, respectfully requests that you consider the suggestions provided.

Thank you for taking our comments into consideration as these regulations are promulgated.

Respectfully,

Chad Marsar
Vice President, Legal & Regulatory Affairs