

Chapter 104: RULES FOR THE USED CAR INFORMATION ACT

SUMMARY: This Chapter outlines the duties and responsibilities of the Used Car Dealer pursuant to the Used Car Information Act, 10 M.R.S.A. §§ 1471 – 1478

MAINE USED CAR INFORMATION ACT STICKER RULE**SECTION 1. GENERAL DUTIES OF A USED CAR DEALER****A. DEFINITIONS**

1. “Consumer” means any person who is not a used vehicle dealer, and a person defined as a “purchaser” at 10 M.R.S.A. §1471, sub-§6.
2. “Dealer” means any person or legal entity which meets the Used Car Information Act definition of “dealer” at 10 M.R.S.A. §1471, sub-§2.
3. “Implied warranty” means an implied warranty arising under the Maine Uniform Commercial Code, 11 M.R.S.A. §2-314 (as modified by the Magnuson-Moss Act) in connection with the sale by a dealer of a used vehicle that is still within its useful life.
4. “Mechanical defect” means any defect, failure or malfunction of the mechanical system of a motor vehicle, including but not limited to the motor and transmission, electrical, hydraulic or suspension system, and any defect, damage, failure or malfunction that significantly affects the safety or normal use of a motor vehicle.
5. “Motor vehicle” means any automobile or truck with a gross vehicle weight of not more than 10,000 pounds, and does not include motorcycles.
6. “Service contract” means a contract in writing for any period of time or any specific mileage to refund, repair, replace or maintain a used vehicle, and which is provided at an extra charge beyond the price of the used vehicle.
7. “Substantial damage” means damage by collision, water, fire or other means to the motor vehicle so substantial that if known to the consumer it would affect the consumer’s decision to purchase the car or the price the consumer would be willing to pay.
8. “Used vehicle” means any vehicle driven more than the limited use necessary in moving, road testing or consumer test drives of a new vehicle prior to delivery to

a consumer “Used Vehicle” includes “program” or “executive” cars, but does not include any vehicle sold only for scrap or parts (title documents surrendered to the state and a salvage certificate issued). Any vehicle which meets the definition of a “reconstructable motor vehicle” at 10 M.R.S.A. §1471, sub-§6-A is considered a “used vehicle.”

9. “Warranty” means any undertaking in writing, in connection with the sale by a dealer of a used vehicle, to refund, repair, replace, maintain or take other action with respect to such used vehicle and provided at no extra charge beyond the price of the used vehicle. Also included in this Used Car Information Act definition is any representation by a dealer which meets the definition of “warranty” at 10 M.R.S.A §1471, sub-§8.
10. “You” means any dealer, or any agent or employee of a dealer, except where the term appears on the window form required by this rule.
11. “Reconstructable motor vehicle” means a used motor vehicle that does not meet inspection standards and does not have an inspection sticker affixed to it.

B. USED CAR INFORMATION ACT VIOLATIONS

1. **Misrepresentations.** It is a violation of the Maine Used Car Information Act, 10 M.R.S.A. §1475:
 - (a) To misrepresent in writing the mechanical condition of a used vehicle (verbal misrepresentation may be a violation of common law or statutory law such as the Maine Unfair Trade Practices Act or the Maine Uniform Commercial Code);
 - (b) To misrepresent in writing the terms of any warranty offered in connection with the sale of a used vehicle; and
 - (c) To represent in writing that a used vehicle is sold with a warranty when the vehicle is sold without any warranty.
2. **Failure to Disclose.** It is a violation of the Maine Used Car Information Act, 10 M.R.S.A. §1475:
 - (a) To fail to disclose in writing, prior to sale, that a used vehicle is sold without any warranty; and
 - (b) To fail to make available, prior to sale, the terms of any written warranty offered in connection with the sale of a used vehicle.
 - (c) To fail to disclose in writing, on the window form, that a vehicle has a major mechanical defect, even if that defect has been fixed, if you are aware of it.
 - (d) To fail to disclose in writing, on the window form, that a vehicle has had substantial damage from collision, fire, water or any other means, if you are aware of it.

C. CONSUMER SALES - BUYER'S GUIDE WINDOW FORM

It is a violation of the Maine Used Car Information Act, 10 M.R.S.A. §1475, for any dealer to fail to comply with the following requirements:

1. **General Duty.** Before you offer a used vehicle for transfer or sale to a consumer or another dealer, you must prepare, fill in as applicable and display on that vehicle a "Buyer's Guide" as required by this Rule.
 - (a) Use a side window to display the form so both sides of the form can be read, with the title "Buyer's Guide" facing to the outside. You may remove a form temporarily from the window during any test drive, but you must return it as soon as the test drive is over.
 - (b) The capitalization, punctuation and wording of all items, headings and text on the form must be exactly as required by this Rule. The entire form must be printed in 100% black ink on a white stock no smaller than 12 ½ inches high by 8 ½ inches wide in the type styles, sizes and format indicated in the sample form in Appendix D, with no additions or deletions.
2. **Directions for Filling Out Buyer's Guide.** When filling out this Buyer's Guide form, follow the directions (a) through (m):
 - (a) Make, Model, Model Year, VIN. Put the vehicle's name (for example, "Chevrolet"), model (for example, Vega), model year and complete vehicle identification number (VIN) in the spaces provided. You may write the dealer stock number in the space provided or you may leave this space blank.
 - (b) Prior Use. Enter the principal manner that the vehicle was used by the former owner, such as personal transportation, police car, daily rental car, taxi or other descriptive term.
 - (c) Mechanical Defects. Enter a statement identifying any and all mechanical defects known to you at the time of sale. You must make this disclosure even if the defect has been fully repaired. A reconstructable vehicle must be disclosed as an "unsafe vehicle".
 - (d) How Acquired. Enter the type of sale by which you acquired the vehicle, such as trade-in, sheriff's sale, repossession, dealer auction, out-of-state dealer auction or other descriptive term.
 - (e) Substantial Damage. Enter a statement identifying any and all substantial damage that the vehicle has sustained that is known to you, including damage to the body or engine from collision, fire, water or other causes. You must make this disclosure even if the damage has been fully repaired.

- (f) **Warranty of Inspectability.** Except for reconstructable motor vehicles, clearly labeled as an “Unsafe Motor Vehicle”, you cannot sell or transfer a vehicle unless it meets the State inspection standards and displays a valid inspection sticker issued to your dealership during the last 60 days prior to the date of sale or transfer. This box must be checked unless the vehicle is a reconstructable motor vehicle. Neither you nor the buyer can reduce or negotiate away this warranty.
- (g) **No Express Warranty Except That Vehicle Can Pass State Inspection.** If you offer the vehicle without any dealer express warranty, except the warranty that it can pass inspection, check this box. If you offer the vehicle with a dealer express warranty or with implied warranties, or with both, then check the appropriate boxes below this section of the Buyer’s Guide.
- (h) **Dealer Express Warranty.** If you offer the vehicle with an express warranty, briefly describe the warranty terms in the space provided. This description must include the following warranty information:
- (i) Whether the warranty offered is “Full” or “Limited”. Mark the box next to the appropriate designation.
 - (ii) Which of the specific systems are covered (for example, “engine, transmission, differential”). You cannot use shorthand, such as “drive train” or “power train” for covered systems.
 - (iii) The duration (for example, “30 days or 1,000 miles, whichever occurs first”),
 - (iv) The percentage of the repair cost paid by you (for example, “The dealer will pay 100% of the labor and 100% of the parts.”)
 - (v) If you charge the consumer a deductible for each repair, enter the amount in the space provided here or list separate deductibles on the “Duration” line.
 - (vi) If the vehicle is still under the manufacturer’s original warranty, you must add the following paragraph below the “Full/Limited Warranty” disclosure: “MANUFACTURER’S WARRANTY STILL APPLIES. The manufacturer’s original warranty has not expired on the vehicle. Consult the manufacturer’s warranty booklet for details as to warranty coverage, service location, etc.”
 - (vii) If, following negotiations, you and the buyer agree to changes in the warranty coverage, mark the changes on the form, as appropriate. If you first offer the vehicle with an express warranty, but then sell it without one, cross out the original warranty offer and mark the “No Express Warranty” box.

If your express warranty requires the consumer to pay a deductible, enter the amount and terms on the line provided.

- (i) Service Contracts. If you make a service contract available on the vehicle, you must mark the box provided below the warranty disclosure area.
- (j) Implied Warranties. In many cases you may disclaim the protection provided consumers by the Maine implied warranty laws. These laws include the Warranty of Merchantability (i.e., the vehicle is fit for the ordinary purposes for which such vehicles are used) and the Warranty of Fitness (i.e., you know the consumer is relying on your specific advice as to whether the car is fit for a particular purpose). Assuming the car is still within its useful life and has not been abused by its other owners, if you have not disclaimed implied warranties (by checking the “No” box), you may be responsible for:
 - (i) repairing defects in materials or workmanship that were not apparent when you sold the vehicle; or
 - (ii) for accepting back the car if it is not fit for the specific purpose you advised it was suitable for.

However, pursuant to the Magnuson-Moss Warranty Act (15 U.S.C. §2301 *et seq.*), under certain circumstances your right to limit implied warranties is not absolute. For example, if you offer a dealer express warranty then you may only limit implied warranties to the duration of the express warranty and if you wish to so limit them you should check that box. Further, you may not disclaim or limit implied warranties at all if you sell the customer a service contract for the used car within 90 days of the sale of the car. For example, if you sell the purchaser a service contract, you cannot disclaim implied warranties and should not check the Implied Warranty “No” box.

- (k) Important Information: Prior Titled Owner’s Name And Address Is Available From The Dealer Upon Request. Maine law requires the dealer to promptly disclose upon request of any person the name and address of the previous owner of the motor vehicle. The prior owner’s name and address as given on the title are public record and disclosure does not violate privacy laws.
- (l) Vehicle Returned To Manufacturer. This vehicle has been the subject of a “Lemon Law” complaint. If a used vehicle has been returned to a manufacturer because of warranty defects, you must give consumers any details known to you.
- (m) Complaints. In the space provided under “Notice of Breach of Warranty” put the name, title and telephone number of the person who should be contacted if any complaints arise after sale. If warranty repairs are not to be performed at your dealership, you must put the name, address and other identifying information of each facility within a radius of 50 miles

of the dealer's place of business to which the vehicle may be brought for repairs, replacement of parts and other service under the warranty.

D. WINDOW FORM GIVEN TO BUYER

1. **Form given to buyer.** Give the buyer of a used vehicle sold by you the window form described above containing all of the disclosures required by the Rule and reflecting the warranty coverage agreed upon. If you prefer, you may give the buyer a copy of the original, so long as that copy accurately reflects all of the disclosures required by the Rule and the warranty coverage agreed upon.
2. The white copy of the window form is given to the buyer and the copy with an original signature of the buyer is to be kept in your files.
3. **Incorporated into contract.** The information on the final version of the window form is incorporated into the contract of sale for each used vehicle you sell to a consumer. Information on the window form overrides any contrary provisions in the contract of sale. To inform the consumer of these facts, include the following language in 10 pt. bold caps in each consumer contract of sale:

“The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract or sale.”
4. **Contrary statements.** You may not make any statements, oral or written, or take other actions which alter or contradict the disclosures required above.
5. **Warranty negotiations.** You may negotiate over express warranty coverage, as long as the final warranty terms are described in the contract of sale and summarized on the copy of the window form you give to the buyer.

E. CONSUMER SALES -- UNSAFE MOTOR VEHICLE WINDOW FORM

1. The vehicle must be inspected at a licensed state safety inspection station. The “UNSAFE MOTOR VEHICLE” form must be completed and signed by a licensed inspection mechanic at a licensed inspection station.
2. The form must have the following information:
 - a. The make, model, year and vehicle identification number
 - b. The signature of the inspection mechanic
 - c. The inspection station number
 - d. The date that the inspection was done.
 - e. Disclosure of items that fail the inspection.

3. The form must be affixed to vehicle. The yellow copy of the “UNSAFE MOTOR VEHICLE” window form must be affixed to the vehicle prior to displaying the vehicle for sale.
4. At the time of sale have the buyer sign the white and pink copy of the form. Give the yellow copy of the form to the buyer. Keep the signed pink copy for your records.
5. The car cannot be driven from your dealership lot.
6. You cannot remove the yellow copy of the “UNSAFE MOTOR VEHICLE” form from the vehicle.

F. UNFAIR TRADE PRACTICES

Violations of any of these Rules is prima facie evidence of an unfair trade practice in violation of 5 M.R.S.A. §207 (1979).

STATUTORY AUTHORITY 10 M.R.S.A. §1474 subsection 4F

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