



*** * * IMPORTANT DEALER ALERT * * ***

Delivery & Handling: Strict enforcement action has begun!

TO: Colorado Dealers
FROM: Todd O'Connell
RE: Regulatory enforcement action: D&H advertising compliance critical – fines, penalties, and strict enforcement underway
DATE: April 5, 2015

The attached memorandum from the Motor Vehicle Dealer Board (“Dealer Board”) advises all dealers that the Auto Industry Division (“Division”) will be aggressively investigating D&H advertising compliance. To date, enforcement has been more educational with warnings typically issued. CIADA has been advising for years that D&H must be included in advertised prices, so this alert should be a *reminder*. Recent complaints from dealers to the Division and the Dealer Board have escalated with dealers demanding consequences and penalties to achieve a “level-playing field.”

D&H must be included in the prominent, advertised price – it **cannot** be included as a footnote to an advertised price (for example, “*Price does not include D&H and Tax, Title, License fees”). This applies to web site listings, third party sites, and print-ads.

An eighteen-month task force on *Electronic Media & Technologies* organized by the Division concluded in April 2014. The group included regulators, attorney general representatives, third party marketing companies, and the dealer associations—the primary purpose was to review existing advertising rules in light of technology advances and new third party providers and to recommend specific changes to the Dealer Board. D&H came up *repeatedly* throughout this task force. Instead of a recommendation to cap or eliminate D&H, the dealer associations urged no change in dealers’ ability to charge fees with an opportunity for training and time to warn that stricter enforcement would be coming. CIADA has promoted advertising compliance through emails, magazine articles and compliance seminars warning of stricter enforcement, though uncertain when. ***It is now critical that every dealer ensure proper compliance and disclosure of D&H or suffer “severe” disciplinary sanctions.***

The Dealer Board has fining authority up to \$10,000 *per violation*.

Federal Enforcement Risk Continues: After a series of enforcement actions, the FTC continues to aggressively target dealers and has called out this area. *See attached guidance, Additional Resources.*

CIADA strongly recommends that dealers review all advertising—the attached guidance summarizes the key requirements regarding D&H in Colorado. Please contact me directly if you have questions.

Contact:

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