

SECONDHAND AUTOMOBILE PRICE DISPLAY RULE

New York City Department of Consumer Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Department of Consumer Affairs (DCA) is proposing a new rule to protect the public by requiring certain price, and other, disclosures by Dealers in Secondhand Articles in New York City.

When and where is the Hearing? DCA will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 a.m. on Monday, October 19, 2015. The hearing will be in the Department of Consumer Affairs hearing room at 66 John Street, 11th Floor, New York, NY 10038.

How do I comment on the proposed rules? Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to the Department of Consumer Affairs through the New York City rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dca.nyc.gov.
- **Mail.** You can mail comments to Mary Cooley, New York City Department of Consumer Affairs, 42 Broadway, New York, NY 10004.
- **Fax.** You can fax written comments to the Department of Consumer Affairs, (646) 500-5962.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 436-0392. You can also sign up in the hearing room before the hearing begins on October 19, 2015. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rule on or before October 19, 2015.

Do you need assistance to participate in the Hearing? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 436-0155. You must tell us by October 15, 2015.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the Web site at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs.

What authorizes the Department of Consumer Affairs to make this rule? Sections 1043 and 2203(f) of the City Charter, Section 20-104 of Subchapter 9 of Chapter 2 of title 20 of the New York City Administrative Code, and Section 20-271 of Subchapter 11 of Chapter 2 of Title 20 of the New York City Administrative Code authorize the Commissioner of the Department of Consumer Affairs to make this proposed rule. This proposed rule was not included in the regulatory agenda of the Department of Consumer Affairs for this Fiscal Year because it was not contemplated when the Department published the agenda.

Where can I find the rules of the Department of Consumer Affairs? The Department of Consumer Affairs' rules are in Title 6 of the Rules of the City of New York.

What rules govern the rulemaking process? The Department of Consumer Affairs must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Local Law 44 of 2015 amended Section 20-271 of Title 20 of the New York City Administrative Code to require secondhand dealers in automobiles operating in New York City to display the total selling price for each automobile offered for sale and the price of specified add-on products and to disclose that the purchase of add-on products is optional. The law also establishes penalties for lack of compliance with these requirements. The proposed rule is necessary to implement Local Law 44.

Section 20-270 of the New York City Administrative Code requires dealers who sell both secondhand and new items to post a sign to that effect. Section 20-271, as amended by Local Law 44, requires such dealers to label secondhand articles to inform the public that the items are not new. To protect consumers, the proposed rule provides examples of language that may be used to describe automobiles, products and parts that are not new.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Proposed Rule

A new Section 2-105 is added to Subchapter K of Chapter 2 of Title 6 of the Rules of the City of New York to read as follows:

§2-105 Labeling of secondhand automobiles and posting of prices for secondhand automobiles

(a) Labeling of Used Automobiles, Products and Parts.

- (1) All secondhand automobiles, products and parts sold by secondhand automobile dealers operating in New York City that are not new shall be labeled as such. Easily understood words such as “secondhand,” “used,” “not new,” “demo model,” “pre-owned,” “refurbished” and “recycled” may be used to indicate that an item is not new.

(b) Total Selling Price Signs.

- (1) The total selling price sign required by section 20-271(b)(1) of the administrative code of the city of New York shall be prominently displayed on the dashboard of the secondhand automobile to which the sign applies, or posted within five feet of the point of display of the secondhand automobile to which the sign applies. If the dashboard of the secondhand automobile is not visible to the consumer at eye-level or accessible to the consumer, the sign shall be prominently displayed at the point of display of such automobile.
- (2) The total selling price sign shall display the total selling price in lettering that is clear, legible, bold and at least one inch in height. The sign must clearly indicate the automobile to which the total selling price applies.

(3) The total selling price sign shall state, in lettering that is clear, legible and at least one-half as high and one-half as broad as the largest print on the sign, that taxes and fees for securing registration and certificate of title are not included in the total selling price.

(c) Add-On Product Signs.

(1) Secondhand automobile dealers shall list the total selling price of add-on products, as defined in section 20-271(b)(2) of the administrative code of the city of New York in close proximity to the product description. If multiple add-on products are grouped together on the same sign, each add-on product must be listed separately, one item per line, with the price of the add-on product located to the right of the product description. Lettering for the description and the price of the add-on product must be clear, legible and the same size, which must be at least one inch in height.

(2) If add-on products are listed individually, the price of the add-on product must be in close proximity to the product description. Lettering for the description and the price of the add-on product must be clear, legible and the same size, which must be at least one inch in height.

(3) All signs required by section 20-271(b)(2) of the administrative code of the city of New York shall include the following language in lettering that is clear, legible, bold and capitalized, and at least one-half as high and one-half as broad as the largest print on the sign, but no less than one-quarter inch in height: “YOU ARE NOT REQUIRED TO BUY ANY ADD-ON PRODUCTS IN ORDER TO PURCHASE A CAR AT THE ADVERTISED PRICE.”

(d) The requirements of subdivisions (b) and (c) of this section shall apply to secondhand automobiles dealers that operate in New York City.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Price and Other Disclosure Requirements for Dealers in Second Hand Articles

REFERENCE NUMBER: 2015 RG 097

RULEMAKING AGENCY: Department of Consumer Affairs

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: September 14, 2015

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Secondhand Automobile Price Display Rule

REFERENCE NUMBER: DCA-33

RULEMAKING AGENCY: DCA

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Katherine B. Vera
Mayor's Office of Operations

September 14, 2015
Date