

137-020-0040

Adoption of **FTC Used Car Rule**, **Federal Truth-in-Lending Act** [Credit], and **Federal Consumer Leasing Law**

1. For purposes of this rule, the following definitions shall apply:

a. [(a)] "**Truth-in-Lending Act**" means the Federal Truth-in-Lending Act, as amended [prior to] **and in effect as of May 1, 2007** [January 1, 1987], (including 15 U.S.C. 1601-1665(a), and any regulations which have been adopted thereto **and in effect as of May 1, 2007** [prior to January 1, 1987], including **but not limited to** Regulation Z (12 CFR 226);

b. [(b)] "**Federal Consumer Leasing Law**" means the consumer leasing portions of the Truth-in-Lending Act, 15 USC §1667 **et seq.**, as amended **and in effect as of May 1, 2007** [by the Community Development Act of September 23, 1994, Public Law No. 103-325, § 336, 108 Stat 2160, 2234] and all regulations which implement this section including **but not limited to** Regulation M (12 CFR 213); [and]

c. "**FTC Used Car Rule**" means the **Federal Trade Commission Used Motor Vehicle Trade Regulation Rule**, 16 CFR § 455 **et seq.** as amended **and in effect as of May 1, 2007**;

d. [(c)] "Person" refers to those individuals and entities as defined in ORS 646.605(4);

e. [(d)] "Real Estate, Goods or Services" refers to those items defined in ORS 646.605(7);[.]

f. "**Consummation**" means the time at which a consumer becomes contractually obligated on a credit transaction. The time the obligation arises is a matter determined under state law; and

g. **The definitions specified in OAR 137-020-0020.**

2. [(2)] It is unfair or deceptive conduct in trade or commerce for a person to advertise, offer credit or extend credit related to the purchase of real estate, goods or services in violation of **the FTC Used Car Rule**, **the Truth-in-Lending Act**, or the **Federal Consumer Leasing Law**.

AGS19420.DOC

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Justice/Civil Enforcement Division

OAR137

Agency and Division

Administrative Rules Chapter Number

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Rules Coordinator

Address

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RULE CAPTION

Adoption of FTC Used Car Rule, Federal Truth-in-Lending Act and Federal Consumer Leasing Law

May 4, 2007

10:00 a.m. (Pacific)

Commerce Building, 158 12th Street NE, Salem OR

Hardy Myers

Hearing Date

Time

Location

Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

ADOPT: Not Applicable.

AMEND: OAR 137-020-0040.

REPEAL: Not Applicable.

RENUMBER: Not Applicable.

AMEND & RENUMBER: Not Applicable.

ORS 646.608(4)

Not applicable

Stat. Auth.

Other Authority

ORS 646.608(1)(u)

Stats. Implemented

RULE SUMMARY

OAR 137-020-0040 authorizes enforcement of the federal Truth-in-Lending and Consumer Leasing Acts through the state's Unlawful Trade Practices Act. The amendments update cross references to these Acts. The amendment also makes the Federal Trade Commission Used Motor Vehicle Trade Regulation Rule, 16 CFR § 455 et seq. enforceable under state law. The federal rule requires that motor vehicle dealers display a "Buyers Guide" in used cars they offer for sale to the public

The Agency invites public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

Hardy Myers 3/15/07
Signature Date

Last Day for Public Comment: April 27, 2007.

Last day to submit written comments to the Rules Coordinator

Hardy Myers, Attorney General
Oregon Department of Justice

AGS19418

*The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday. ARC 920-2005

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Before the Oregon Department of Justice, Financial Fraud/Consumer Protection Section
Civil Enforcement Division

Administrative Rules Chapter Number: 137

In the Matter of: **Adoption of Amendments to OAR 137-020-0040.**

Rule Caption: **Adoption of FTC Used Car Rule, Federal Truth-in-Lending Act and Federal Consumer Leasing Law**

Statutory Authority: **ORS 646.608(4).**

Other Authority: Not Applicable.

Statutes Implemented: **ORS 646.608(1)(u).**

Need for the Rule(s):

The federal Truth-in-Lending Act and Federal Consumer Leasing Law, together with Regulations Z and M adopted under authority of those laws, have long been incorporated into Oregon Department of Justice (DOJ) rules adopted pursuant to the state Unlawful Trade Practices Act (UTPA). OAR 137-020-0040(2). OAR 137-020-0040(1) currently incorporates federal law as it existed in January, 1987 (Truth-in-Lending Act) and in November, 1994 (Federal Consumer Leasing Law). Both of the federal statutes, and their associated regulations, have been updated since originally incorporated in OAR 137-020-0040. The proposed amendment to OAR 137-020-0040 is necessary to incorporate the latest version of federal law.

The Federal Trade Commission Used Motor Vehicle Trade Regulation Rule ("FTC Used Car Rule"), 16 CFR §455, helps consumers make informed choices when shopping for a used car. DOJ is not authorized by federal law directly to enforce the FTC Used Car Rule. Past investigations by DOJ have established that some motor vehicle dealers sometimes do not comply with the FTC Used Car Rule. The amendment is necessary to authorize DOJ directly to enforce the FTC Used Car Rule.

Please visit www.doj.state.or.us for a copy of the draft rule and of the draft official commentary which will accompany the rule if it is adopted.

Documents Relied Upon, and where they are available:

- a) Consumer complaints and industry complaints from individual Oregonians and from industry competitors. These are too numerous to list individually, but the documents are maintained by DOJ and can be made available for inspection, upon reasonable advance notice, from: Gene Ebersole, Sr. Assistant Attorney General, Oregon Department of Justice, Financial Fraud/Consumer Protection Section, 1162 Court Street NE, Salem, OR 97310-4096.
- b) Records of past enforcement actions undertaken by DOJ related to the pricing, sales and lease practices as to motor vehicles in Oregon. These records are likewise too numerous to list here individually. Documents relied upon can be made available for inspection, upon reasonable advance notice, from Sr. Assistant Attorney General Ebersole.

Fiscal and Economic Impact, including Statement of Cost of Compliance:

The proposed amendments should have no net fiscal or economic impact on DOJ or any other state agency, unit of local government or member of the public. As a result of the proposed amendments, DOJ may experience increased demand for investigations of violations of federal law. DOJ's enforcement costs would be reduced to the extent that the proposed amendments deter would-be violators from committing new violations of law. As to currently law-abiding members of the public, the proposed

amendment should have no fiscal or economic impact. The rules add no new reporting requirements and no new professional services are anticipated to be required. No additional equipment, supplies or labor are required for compliance.

How were small businesses involved in the development of this rule?

DOJ convened an advisory committee to consider the proposed amendment. The committee included small businesses that would be affected. DOJ requested comments about any fiscal impact of the rule on each represented industry; no comments were received by DOJ. Notice of this rulemaking process was previously published in March 2006 and hearings were held on July 20 and 21, 2006.

Administrative Rule Advisory Committee consulted? Yes.

Types of Small Businesses or Industries Affected: There are approximately 2,650 independent motor vehicle dealers and 350 franchised car dealers in Oregon, most of which are small businesses.

If not, why?:



Hardy Myers
Attorney General

Date: 3/15, 2007

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

ARC 925-2005

AGS19419