

should the Agency decide to move forward with amending the Used Car Rule.

Summary of Necessary Steps

In the Federal Register notice seeking comments, the FTC raises the broad question:

Is there a continuing need for the Rule? Why or why not?

The short answer is that while the Used Car Rule as currently drafted and enforced has not protected the public from unsafe used cars and widespread frauds, with modifications and effective enforcement, it has unique potential for significantly reducing the risks involved in buying used cars.

An effective Used Car Rule is urgently needed to save lives, prevent injuries, and curb auto sales frauds that cost our nation billions of dollars each year. The following steps are necessary in order for the Used Car Rule to achieve those goals:

Strengthen Enforcement

- Strengthen enforcement of the Used Car Rule, and make enforcement of the Rule a top priority for the agency
- Improve protections for members of the U.S. Armed Forces and their families
- Increase the penalty when dealers engage in a pattern or practice of violating the Rule
- Spot-check dealers on a regular basis and report the results to the news media
- Provide grants to states, counties and cities to increase enforcement of the law at the state level
- Coordinate with the National Highway Traffic Safety Administration to strengthen enforcement of the Federal Odometer Act
- Crack down on illicit activity by unlicensed dealers, commonly known as “curbstoners,” particularly in states where there is little or no enforcement against unlicensed dealer activity
- Investigate auto manufacturer and dealer programs promoting vehicles as “certified”

Modify the Rule and Used Car Buyers Guide

The FTC should amend the Used Car Rule to:

- Require auto dealers to inspect used vehicles prior to offering them for sale
- Require auto dealers to provide written disclosure of known defects and prior use
- Require auto dealers to check with warrantors to ascertain whether any warranty on the vehicle, including the manufacturer's warranty, is still in effect and not void due to prior damage or other condition, and accurately report that information on the Guide
- Require auto dealers to check the Vehicle Identification Number (VIN) of used vehicles they offer for sale, in the National Motor Vehicle Title Information System (NMVTIS) database, and disclose essential information from NMVTIS on the Buyer's Guide
- Require dealers to provide the more detailed, complete disclosures required by the state of Wisconsin, using the Wisconsin version of the Used Car Buyers Guide as a model
- Require auto dealers to provide a separate Buyers Guide, placed on the driver's side of the windshield, warning prospective buyers when either 1) a vehicle is designated in NMVTIS as "salvage," "flood," "junk" "rebuilt" or otherwise totaled, or 2) the dealer knew or should have known a vehicle was totaled by the insurer or self-insured entity (a sample of this Guide is attached)
- Remove misleading language from the existing Buyers Guide, regarding "AS IS- NO DEALER WARRANTY" sales, stating that "THE DEALER WILL NOT PAY ANY COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle"
- Preclude 50/50 Warranties or other dealer warranties where dealers represent they will split the cost of repairs with the customer, as qualifying as a warranty under the Buyer's Guide
- Require auto dealers to provide a completed translation of the Buyer's Guide in the language used to negotiate the contract
- Prohibit the sales of certain categories of less valuable / problem vehicles as "certified"

Why the Used Car Rule is needed

Auto sales frauds are a serious problem for American car buyers and the nation's economy

Last year, American car buyers purchased approximately 57,500,000 vehicles. Of those, 16,100,000 were new and 41,400,000 were used. For most consumers, a motor vehicle is the second-largest purchase they make, second only to a home. The average price of a new vehicle is now estimated to be over \$27,800, and used cars average about \$13,900.²

For most car buyers, a safe, reliable vehicle is a necessity of life. It is usually their only means of transportation to get to work, school, shopping, and medical appointments. Owning a motor vehicle opens up economic opportunities and enables people to participate more fully in our society.

For example, “data from the Urban Institute's National Survey of American Families show that twice as many welfare recipients with cars were working than those without cars. Studies of welfare recipients in Michigan and Los Angeles also underscore that access to a car is a critical factor in getting a job.”³

As documented in “Pursuit of the Dream: Cars and Jobs in America,” a video produced by the Annie E. Casey Foundation, a fair deal on a safe, reliable car can transform the lives of families who are otherwise living on the edge, opening new opportunities for them and their children. According to the Foundation:

“Low-income workers who are trying to reach self-sufficiency, stabilize their finances and move up the economic ladder must be able to connect to good jobs and meet family obligations. A car is often a necessity. However, common obstacles such as overpriced and unreliable cars, sub prime (high interest rate) loans, high down payments, hidden purchase costs, and the limitations caused by poor credit histories can prevent them from improving their lives through car ownership.”⁴

However, consumer protections for car buyers have proven to be woefully inadequate. Instead, auto sales and financing is fraught with fraud and predatory and discriminatory practices.

2 Edmunds.com. See website at: <http://www.edmunds.com/advice/buying/articles/45310/article.html>

3 “Use of TANF, Wheels to Work and Job Access Funds for Transportation,” Federal Transit Administration, U.S. Department of Transportation, September 5, 2007.

4 “Pursuit of the Dream: Jobs and Cars in America,” Annie E. Casey Foundation, posted at: <http://www.aecf.org/MajorInitiatives/FamilyEconomicSuccess/PursuitoftheDream.aspx>





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