



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-199A

Roy K. Dockum, Executive Director
Oklahoma Motor Vehicle Commission
4334 N.W. Expressway, Suite 183
Oklahoma City, OK 73116

March 21, 2017

Dear Mr. Dockum:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Motor Vehicle Commission intends to take pursuant to a consent agreement with licensee 238. The proposed action is to impose a fine of \$500 on the licensee for false or misleading advertising concerning an advertisement on the internet offering a free lease. The licensee's offer was to "Lease a 528i for \$799/month, get a 320i lease for Free." Upon inquiry, it was determined that the dealer was including the payments of the 320i lease in the advertised payments of the 528i lease. Further, the customer would actually have two contracts and would make two separate payments on the respective vehicles totaling \$799/month, which makes the dealer's advertisement of a "free" lease false.

Oklahoma law authorizes the Oklahoma Motor Vehicle Commission to "impose a fine not to exceed . . . [\$1,000] against a dealer per occurrence" for engaging in "false or misleading advertising." 47 O.S.Supp.2016, § 565(A), (A)(5)(b). Enforcement powers against false advertising are closely connected to the Legislature's policy statement on new motor vehicles, which states that the new motor vehicle statutes exist to "promote the public interest and the public welfare," "prevent false and misleading advertising," and "prevent unfair practices." 47 O.S.2011, § 561. The Board's administrative rules specifically prohibit the use of certain statements in advertisements, including "[t]he use of the term[] 'free' . . . if a consumer must make a purchase to obtain the 'free' offer" and additional "[s]tatements such as . . . 'you make no payments for a number of months', or similar statements unless the finance contract is written as such and the customer is not obligated for payments to the finance company for that specified period of time." OAC 465:15-3-14(6), (14). The action seeks to enforce the Legislature's policy against false and misleading advertising by imposing fines to deter advertisements running afoul of the administrative rules.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Motor Vehicle Commission has adequate support for the conclusion that this action advances the State of Oklahoma's policy to prevent false and misleading advertising in the sale of new motor vehicles.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



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