

New York City Department of Consumer Affairs

Notice of Adoption

Notice of Adoption of new Rules to implement Local Laws 197 and 198 of 2017 regarding second-hand automobile dealers.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Consumer Affairs by Section 2203(f) of the New York City Charter and Sections 20-104(e) and 20-275.1 of the New York City Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department promulgates and adopts Sections 2-106, 2-107, 2-108, and 2-109 of Title 6 of the Rules of the City of New York.

This rule was proposed and published on January 29, 2018. The required public hearing was held on February 28, 2018. This rule was proposed and published again on April 6, 2018, and a second public hearing was held on May 7, 2018.

Statement of Basis and Purpose of Rule

The City Council enacted Local Laws 197 and 198 for the Year 2017 relating to second-hand automobile dealers. DCA is promulgating new rules to implement these laws. Specifically, the new rules:

- require dealers to provide financing disclosures to consumers;
- clarify the automobile contract cancellation options that dealers offer to consumers;
- create a consumer bill of rights that dealers must display; and
- clarify requirements related to record-keeping by dealers.

New material is underlined.

[Deleted material is in brackets.]

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

Rule Amendment

Subchapter K of Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding new Sections 2-106 through 2-109 to read as follows:

2-106 Financing Disclosures.

(a) To comply with Section 20-268.1(e)(2) of the Administrative Code, each second-hand automobile dealer must provide to each consumer the financing disclosure shown below on a paper no less than 8.5 inches by 11 inches in dimension in the language in which the sales or finance contract was negotiated, provided the commissioner has made such disclosure available in such language.

FINANCING DISCLOSURE – SALE OF USED CAR

[NAME OF LICENSEE]

[ADDRESS OF LICENSEE] • [CITY, STATE, ZIP CODE]

DCA LICENSE # _____

[LICENSEE PHONE NUMBER]

[LICENSEE WEBSITE]

Date _____

Automobile Year _____

Buyer
(Name and
Address) _____

Make and Model _____

Vehicle Identification
Number (VIN) _____

Selected Finance
Company _____

Co-Buyer
(Name and
Address) _____

SALE TERMS

FINANCING TERMS

Automobile Cash Price <i>without</i> Add-on Products and Services		Total Sale Price <i>without</i> Add-on Products and Services <i>after</i> Financing Charges	
Sales Tax for Automobile Only		Down Payment (<i>if applicable</i>)	
Trade-In Amount (<i>if applicable</i>)		Number of Payments	
Estimated Total Registration and Other Fees		Contract Annual Percentage Rate (APR)*	
Total Cash Price <i>without</i> Add-on Products and Services		Lowest APR offered to buyer by any finance company for loan with the same term, number of payments, collateral, and down payment*	
		Monthly Payment <i>without</i> Add-on Products and Services	

*The APR is the cost of credit as a yearly rate. The APR includes the rate offered by the financing institution to the dealer. This rate is affected by: your credit score, the amount of the credit, the amount of your down payment, and the length of the loan. You are **NOT** obligated to accept financing from the dealer. If you choose to do so, the APR calculation may include a fee for the dealer arranging financing.

ADD-ON PRODUCTS OR SERVICES

Add-on Product or Service Selected <i>(If no add-on products or services selected, write N/A below.)</i>	Cash Price of Add-on with Applicable Sales Tax	Monthly Payment with Selected Add-on and Financing Charges*	Total Sale Price with Selected Add-on and Financing Charges*
TOTAL SALE PRICE OF AUTOMOBILE WITH ALL SELECTED ADD-ONS AND FINANCING CHARGES*			

*Includes down payment and trade-in amount, if applicable, sales tax, estimated registration, and other fees.

CONTRACT ASSIGNMENT DISCLOSURE: If you accept financing arranged by the dealer, you must sign a financing contract, known as a Retail Installment Contract, with the dealer. After you sign the contract, the dealer may transfer the contract to another party. That party has the right to receive payments from you under the contract. The dealer must notify you about any initial transfer and the party to whom you owe payment immediately after the initial transfer occurs.

By signing, you are only confirming that you received this form. This form is for information and reference purposes only. You are not purchasing the automobile or accepting financing because you have signed or received this form. This form does not supersede or modify the retail installment contract, which controls your vehicle purchase.

CONFIRM RECEIPT

Applicant Signature

Date

Co-Applicant Signature

Date

(b) To comply with Section 20-268.1(e)(4) of the Administrative Code, a second-hand automobile dealer must retain a copy of each financing disclosure shown in subdivision (a), along with a written acknowledgement that the consumer received the disclosure, for a period of no less than 6 years. The written acknowledgement requirement is satisfied by obtaining the consumer's written signature or initials on the disclosure document.

(c) It is a violation of Section 20-268.1(f) of the Administrative Code for a second-hand automobile dealer to attempt to have a consumer waive any of the protections set forth in Section 20-268.1. Each attempt shall constitute a separate and independent violation.

(d) It is a violation of Section 20-268.3 of the Administrative Code for a second-hand automobile dealer to provide inaccurate translations of documents to a consumer. Each inaccurate document provided to a consumer shall constitute a separate and independent violation.

2-107 Automobile Contract Cancellation Option.

(a) To comply with Section 20-268.2(a) of the Administrative Code, each second-hand automobile dealer must provide to each consumer the automobile contract cancellation option form shown below on a paper no less than 8.5 inches by 14 inches in dimension, printed in color, in the language in which the sales or finance contract was negotiated.

NYC USED CAR CONTRACT CANCELLATION OPTION

Buying a used car can be one of the largest financial commitments you make. Under NYC law, dealers must give you this contract cancellation option, which allows you to cancel the contract within two (2) weekdays. This option gives you time to review the contract away from the dealership. Read the Terms and Conditions on the front and back of this form. This contract cancellation option must be in the language in which you negotiated the contract.

BUYER'S NAME AND ADDRESS (Reference to "Buyer" or "You")	CO-BUYER'S NAME AND ADDRESS (Reference to "Buyer" or "You")
USED CAR DEALER'S NAME AND ADDRESS (Reference to "We" or "Us")	DCA LICENSE NUMBER

AUTOMOBILE DESCRIPTION (Reference to "Automobile")

YEAR: MAKE: MODEL: VEHICLE IDENTIFICATION NUMBER (VIN):

DEADLINE TO CANCEL (DATE AND TIME)*

*You forfeit your right to cancel if you do not do so by the deadline.

TERMS AND CONDITIONS

CANCELLATION OPTION: This form outlines the terms and conditions of the contract cancellation option. *If you ACCEPT*, you have the right to cancel the purchase within two (2) weekdays and get a full refund. *If you DECLINE*, you give up this right. Read both sides before signing.

- In order to cancel the sales contract, you must sign and personally deliver the "Notice to Cancel the Sales Contract" to the dealer by the date and time listed in the yellow box above.
- The dealer keeps the car and its title until you either decline to cancel the sales contract in writing or give up your right to cancel the sales contract by failing to act before the deadline.
- If you cancel the sales contract in compliance with the terms and conditions set forth in this form, the dealer must immediately give you a full refund, including sales tax.
- You agree to execute all necessary documents in order to cancel the sale and obtain a full refund.
- The dealer cannot increase the price of the car or add a fee if you ACCEPT the contract cancellation option *except in the case of a trade-in vehicle. Trade-in vehicles require a \$100 refundable deposit and may also*

require a \$50 non-refundable deposit. See the back for terms and conditions for trade-in vehicles.

- The dealer cannot require you to **DECLINE** the contract cancellation option or to decline cancelling a sales contract as a condition for buying the car.
- The dealer must give you a copy of this completed contract cancellation option document with your signature. If you cancel the sales contract, the dealer must give you a copy of the document you submitted to cancel the sales contract.
- This cancellation option does not otherwise affect or alter the legal rights, duties, obligations, or liabilities of the buyer or dealer.

CANCELLATION DEADLINE: The deadline to personally deliver to the dealer (address above) the signed "Notice to Cancel the Sales Contract" is shown in the yellow box above. The date and time set by the dealer can be no earlier than the close of business on the second weekday (excluding legal holidays) after you sign the sales contract or the retail installment contract, whichever is later.

TRADE-IN VEHICLES: SEE THE BACK OF THIS FORM FOR ADDITIONAL TERMS AND CONDITIONS.

Sign here to ACCEPT option

By signing below, you and the dealer agree to the terms and conditions on both sides of this form. You acknowledge that you received and read this form. **BY SIGNING HERE, YOU ELECT TO ACCEPT THIS OPTION.***

Buyer's Signature

Co-Buyer's Signature

Sign here to DECLINE option

By signing below, you voluntarily give up the right to cancel your car purchase. You acknowledge that you received and read this form. **BY SIGNING HERE, YOU ELECT TO DECLINE THIS OPTION.**

Buyer's Signature

Co-Buyer's Signature

*You are accepting the *option* to cancel the contract, not cancelling the contract. To cancel the contract, you need to complete the Notice below and follow the terms and conditions.

NOTICE TO CANCEL THE SALES CONTRACT

By signing below, you are exercising your right to cancel the purchase of the used car described in this form. The personal delivery of this notice to the dealer is sufficient to exercise the option to cancel the sales contract. The buyer and all co-buyers must sign below to cancel the contract.

Cancellation Deadline: Date _____ Time _____

Buyer's Signature

Date / Time

Co-Buyer's Signature

Date / Time

NOTICE TO DECLINE TO CANCEL THE SALES CONTRACT

By signing below, you are declining your right to cancel the purchase of the used car described in this form.

Buyer's Signature

Date / Time

Co-Buyer's Signature

Date / Time

ADDITIONAL TERMS AND CONDITIONS

TRADE-IN VEHICLES: If you have agreed to trade in a vehicle and you **ACCEPT** the contract cancellation option, you must pay a refundable deposit of \$100. You may either **USE** the trade-in vehicle during the cancellation period for an additional non-refundable fee of \$50 or **LEAVE** the trade-in vehicle with the dealer until you cancel the sales contract or the option expires. Select one option below.

Leave the Vehicle: By signing below, I, _____, choose to leave the trade-in vehicle with the dealer until I choose to cancel the sales contract or the option expires.

TRADE-IN AUTOMOBILE DESCRIPTION

YEAR: MAKE: MODEL: VEHICLE IDENTIFICATION NUMBER (VIN):

I agree to the following terms and conditions:

- If I cancel the sales contract, the dealer may keep the \$100 deposit and must return the trade-in vehicle to me on the day I exercise the cancellation option.
- If I do not cancel the sales contract, the dealer must immediately refund the \$100 deposit when I pick up the automobile I purchased under the sales contract.
- The dealer cannot sell my trade-in vehicle until either I have declined to exercise the cancellation option or the time to do so has expired. If the dealer inadvertently sells or otherwise transfers the title to my trade-in vehicle, the dealer must pay me the retail market value of the trade-in vehicle or its value as stated in the sales contract, whichever is greater.

Buyer's Signature *Date* *Co-Buyer's Signature* *Date*

Dealer Representative's Signature *Date*

Use the Vehicle: By signing below, I, _____, choose to use the trade-in vehicle during the cancellation period for a non-refundable fee of \$50. I agree to the following terms and conditions:

- During the cancellation period, I cannot drive more than 250 miles in the trade-in vehicle.
- I must return the vehicle in the same condition as when I presented it as a trade-in vehicle, except for any reasonable wear and tear.
- If I comply with the terms and conditions and do not cancel the sales contract, the dealer must immediately refund the \$100 deposit when I pick up the automobile I purchased under the sales contract.
- If I do not comply with the terms and conditions, the dealer may either cancel the sales contract or keep the \$100 deposit.
- The dealer does not have to give me the car I purchased until I deliver the trade-in vehicle in the same condition as when I presented it as a trade-in vehicle, except for reasonable wear and tear.

Buyer's Signature *Date* *Co-Buyer's Signature* *Date*

Dealer Representative's Signature *Date*

DEALER ACKNOWLEDGMENT OF BUYER ELECTION

We acknowledge that you have elected to **CANCEL** / **NOT CANCEL** your sales contract for a used car.

You have complied with the terms and conditions of the contract cancellation option, including the personal delivery of the "Notice to Cancel the Sales Contract" before the cancellation deadline.

You have failed to comply with the terms and conditions of the contract cancellation option in the following way(s), giving up your right to cancel the sales contract:

Dealer Representative's Signature

Date / Time

DCA License Number

(b) To establish that a trade-in automobile was sold or transferred inadvertently under Section 20-268.2(g)(1) of the Administrative Code, a second-hand automobile dealer must have maintained written policies and procedures designed to avoid such sale and must have distributed such policies and procedures to all employees with responsibility in this area annually.

(c) If a second-hand automobile dealer determines that a consumer has failed to comply with the terms and conditions of a contract cancellation option under 20-268.2(g)(2), it must provide the consumer a written explanation of such determination. The second-hand automobile dealer must maintain a record of such determination for no less than 6 years and must provide a copy of such record to the commissioner upon request.

2-108 Consumer Bill of Rights.

(a) To comply with Section 20-268.4(b)(1) of the Administrative Code, each second-hand automobile dealer must post a copy of the consumer bill of rights shown below on a paper no less than 18 inches by 24 inches in dimension in English, and in any other language in which the second-hand automobile dealer transacts business, provided the commissioner has made the bill of rights available in such language. A copy must be posted conspicuously in any office or area of the dealer location where consumers negotiate and execute sales contracts.

Used Car Consumer Bill of Rights

Buying a used car can be one of the largest financial commitments you make. Used car dealers must post this *Used Car Consumer Bill of Rights* and give you a copy *before* you sign a sales contract. The *Consumer Bill of Rights* must be provided to you in the language in which you negotiated the contract if a translated version is available on the Department of Consumer Affairs (DCA) website at nyc.gov/dca. Take the time to read and understand the *Consumer Bill of Rights* before you sign that you received it.

Your Rights

1. **You have the right to buy a car at the price advertised.**

Used car dealers must display prices on cars. A used car dealer may not sell you a car at a price that is more than the price advertised, quoted, or posted on the car. The dealership cannot increase the price of the car because you do not finance the car with the dealership.

2. **You have the right to know the details of your financing agreement *before* you sign anything.**
3. **You have the right to decline financing or a loan arranged by a used car dealer.** You can pay cash or seek financing from another lender.
4. **You have the right to written disclosures about important terms of your financing contract.** Federal law requires that you get written disclosure of terms such as your annual percentage rate (APR), the amount of money you have agreed to finance, and the total amount you will have to pay to completely satisfy the terms of the financing contract.

Under NYC law, the dealership must disclose the lowest APR offered to you by any financing company for a loan with the same term, number of payments, collateral, and down payment. The dealership must also disclose any fees the dealer is charging you for financing. These disclosures must be in the language in which you negotiated the contract, provided DCA has made these disclosures available in such language.

5. **You have the right to the Federal Trade Commission (FTC) Buyer's Guide for any used car and, where applicable, a written New York State Lemon Law warranty.**

The Buyer's Guide gives important information about the car and warranty and must be posted on each car.

Under the New York State Lemon Law, used car dealers must provide written warranties on used cars that are primarily for personal or household use, cost more than \$1,500, and have fewer than 100,000 miles. The warranty covers the engine, transmission, drive axle, brakes, radiator, steering, and alternator. Never buy a car "as is."

Read both the Buyer's Guide and warranty closely before you buy.

6. **You have the right to refuse add-ons.** The dealership cannot require you to buy any add-ons as a condition of buying or financing the car at an offered price.
7. **You have the right to get the price of each add-on in writing.** The dealership must give you, in writing, the itemized price of each add-on product and/or service, including the monthly and total price of financing with and without each product and/or service.
8. **You have the right to be offered a cancellation option.** Dealers must offer you a contract cancellation option, which allows you to cancel the contract within two (2) weekdays. This option gives you time to review the contract and any financing agreement away from the dealership. You will not be able to take the car home, but if you are trading in a car and pay the necessary fee, you will be able to use the trade-in during the cancellation period. The contract cancellation option must be given to you in the language in which you negotiated the contract. Learn more about the contract cancellation option at nyc.gov/dca.
9. **You have the right to be free from discrimination when you apply for credit.** Credit discrimination on the basis of race, color, religion, national origin, sex, marital status, age, or use of public assistance is illegal under federal law.
10. **You have the right to file a complaint.** You can file a complaint against a used car dealer, regardless of your immigration status. Used car dealers must have a Department of Consumer Affairs (DCA) license in order to operate. You can **call 311** to be transferred to DCA to check a dealership's license status and complaint history. If you believe a used car dealer has violated your rights or taken advantage of you, file a complaint at nyc.gov/dca or **contact 311** (212-NEW-YORK outside NYC).

Consumer Initials or Signature:

(b) To comply with Section 20-268.4(b)(2) of the Administrative Code, each second-hand automobile dealer must provide to each consumer a written copy of the consumer bill of rights shown in subdivision (a) on a paper no less than 8.5 inches by 14 inches in dimension in the language in which the sales contract was negotiated, provided the commissioner has made the bill of rights available in such language.

(c) A second-hand automobile dealer may comply with Section 20-268.1(e)(1) of the Administrative Code by providing each consumer with a consumer bill of rights pursuant to Section 20-268.4(b)(2) of the Administrative Code.

(d) The requirements of this section shall apply only to second-hand automobile dealers that sell second-hand automobiles to consumers.

2-109 Records and Reports.

(a) To comply with Section 20-268.5(a) of the Administrative Code, a second-hand automobile dealer must maintain a copy of the consumer bill of rights signed or initialed by each consumer for six years after the date of execution of such document.

(b) To comply with Section 20-268.5(c) of the Administrative Code, a second-hand automobile dealer must maintain an automobile contract cancellation option report in the format shown below.

NEW YORK CITY SECOND-HAND AUTOMOBILE CONTRACT CANCELLATION OPTION REPORT		
Second-Hand Automobile Dealer Name:		
Second-Hand Automobile Dealer DCA License Number:		
Business Address:		
<p>Second-hand automobile dealers must maintain a report on consumer use of automobile contract cancellation options. The report must be made available upon request to the Department of Consumer Affairs, but no more than once annually.</p>		
Date	Number of Consumers that Accepted an Automobile Contract Cancellation Option in Connection with their Second-Hand Automobile Purchase	Number of Consumers that Cancelled their Second-Hand Automobile Sales Contracts Pursuant to an Automobile Contract Cancellation Option
January 20__		
February 20__		
March 20__		

April 20 ___		
May 20 ___		
June 20 ___		
July 20 ___		
August 20 ___		
September 20 ___		
October 20 ___		
November 20 ___		
December 20 ___		

- I am authorized (e.g., owner, sole proprietor, general partner, director, corporate officer, or shareholder owning 10% or more of company stock) to complete and sign this form on behalf of the Second-Hand Automobile Dealer named on the front.
- I understand that falsification of any statement made herein is an offense punishable by a fine or imprisonment or both.

Signature

Print Name

Position/Title

Date

(c) A second-hand automobile dealer shall be in violation of Section 20-268.5(c) of the Administrative Code for failing to make available a copy of its automobile contract cancellation option report to the commissioner within 20 business days of receiving a request. Notwithstanding the foregoing sentence, a second-hand automobile dealer shall not be in violation of Section 20-268.5(c) for such a failure where he or she received and complied with a similar request in the past 12 months.