

MINUTES
AUTO INDUSTRY ENFORCEMENT DIVISION
RULEMAKING WORKING GROUP

Meeting of February 24, 2015
1:00 p.m. – 4:00 p.m.

1881 Pierce St.
Lakewood, CO 80214

Working Group Members Present

Chair, Bruce Zulauf (CDOR – Auto Industry Division)
Co-Chair, Chris Rouze (CDOR – Auto Industry Division)
Ron Kammerzell, Senior Deputy Director – Enforcement (CDOR)
Matt Heap, CDOR – Auto Industry Division
Michael Dommermuth, Esq. – CADA
Tim Jackson, President - CADA
Tammi McCoy, CADA,
Todd O’Connell, CIADA
Michael McKinnon, Esq. - CIADA
Rick Wynkoop, Esq.
Steve Perkins, Former Board member
John J. Schenden, Former Board member
Y.E. Scott, (Colorado Attorney General’s Office)
Randall Cherry, (Colorado Attorney General’s Office)

Director Zulauf, Chair, opened the meeting at 1:15 p.m. and thanked everyone for their participation. Each working group member introduced themselves. Only working group members will participate in the discussion.

Director Zulauf informed the group that he was in receipt of written communications submitted by CIADA, Mr. Wynkoop, Mr. Dommermuth and the Attorney General’s office in regards to last meeting’s topics and discussions. Mr. Aboud, Executive Director of the Powersports Association, submitted an email stating that Powersport Dealers Association of Colorado (PDAC) formerly agrees with CADA’s stance and requests that their position be read into the record to express their agreement with CADA as reflected in their counsel’s written comments.

Working Group Meeting Scope – Topics and Discussion

- General discussion and review of proposed rules related to 12-6-104 (3) (k) and 12-6-504 (1) (m) after “un-embedding” Form 2434.
- General discussion and review of group member’s final suggested revisions to Form 2434.

Mr. Schenden inquired about the ten (10) calendar days discussed during the last meeting. He referred to the proposed rule draft submitted by the Attorney General's office making reference to a three (3) day timeframe.

Ms. Scott stated that the ten (10) day refers to total rejection and that the three (3) day is just the initial rejection. She stated that this gives the consumer a choice to continue shopping for financing or to stop the deal before the total ten (10) calendar days are exhausted.

There was a lengthy discussion of finance rejection.

Group took a 10 min. break - Reconvened at 2:30 p.m.

Ms. Rouze, Co-Chair, informed the group that a change occurred during the 2007 Sunset Review. Apparently during Rulemaking at that time, the following language was inadvertently omitted from Form 2434. The language read as follows:

- 1. Disclosures in the following language in order and sequence, must be used in all contracts for the sale of any motor vehicle unless excluded by these regulations.**
- 2. These disclosures may be included in a written contract and may be in a form which is incorporated by reference in a written contract.**
- 3. The language which appears in paragraphs A, B, C, D and E of the required disclosures above must appear in 12 pt. bold face type or at least 3 pts. larger than the smallest type appearing on the contract or form.**
- 4. A copy of all disclosures must be given to the purchaser at the time of consummation of the sale.**
- 5. The following transactions are excluded from the application of this Regulation:**
 - Sales between Dealers and Wholesalers**
 - Sales in which a Retail Installment Sales Contract with all disclosures required by law has been executed at the time the purchaser becomes contractually obligated to purchase the vehicle**
- 6. When a purchase order or agreement is "subject to Dealer Acceptance", the order or agreement shall state this in a conspicuous manner.**

Currently, on the Secretary of State's website, Rule 12-6-104 (3) (k) is posted as the Disclosure Form 2434 only and excludes the aforementioned language.

The Group decided to use the draft provided by the AG's office along with the old language used with Form 2434 prior to 2007 and submit suggestions for discussion at the next Stakeholder meeting. All Group members will receive the updated draft a week before the next scheduled meeting.

Mr. Dommermuth suggested the group modify the Rule to reflect the change to omit three (3) days vs. ten (10) days to Form 2434. Tammi McCoy suggested the form be letter size (8 ½ x11) versus the legal size of (11 x 14). She also suggested omitting the monthly payment, number of payments and interest rate in the Form.

Ms. McCoy shifted the discussion to defining the commonly understood definition of down payment. She stated that using the term “trade-in” can cause confusion among consumers. Generally speaking, most people won’t think of a down payment to include a trade-in.

Ms. Rouze read the definitions for Deposit and Down Payment from the National Automobile Dealers Association’s (NADA) glossary of commonly used terms within the Motor Vehicle Industry which states:

- **Deposit – Buyer’s money which is held by the dealer to hold the vehicle until the paperwork is completed. The deposit is then credited toward the down payment.**
- **Down Payment – Cash or net trade-in made as partial payment by buyer at the time of vehicle purchase.**

The 4th stakeholder meeting is scheduled for Tuesday, March 31, 2015 at 1:00 p.m. – 4:00 p.m. Director Zulauf thanked everyone for their participation and adjourned the meeting at 3:15 p.m.

(Note: The minutes of these rulemaking working groups are very general in nature and only summarize the contents of the meeting. They are not verbatim transcripts and are based principally upon the digital recording of the meeting and upon the later collaboration of staff attendees to ensure that the summary faithfully captures the matters before the working group and the discussion the group had. The digital recording of the meeting is a permanent record of the Division, retained in the electronic filing system of Division, and is available on the Division’s website.)