



NJ AUTO INDUSTRY ALERT

November 9, 2017

New Disclosure Requirements For Motor Vehicle Dealers

Dealer obligation law changed

What is the dealer obligation:

When selling any used vehicle to be registered in New Jersey, new and used car dealers are required to: (1) make sure that the vehicle can pass emissions inspection; (2) perform or pay for any repairs necessary to pass (emissions) inspection without charge or return the full purchase price to the buyer unless the buyer waives or releases the selling dealer of the obligation; and (3) include its obligation in the retail sales agreement or buyer's order if the vehicle is intended to be registered in New Jersey. Importantly, in order for the purchaser to waive the dealer's obligation, the waiver must be written into and separately stated in the retail sale agreement.

What changed:

An amendment to the law was signed by Governor Christie on August 7th and became effective November 1st. Under the amended law, these are new disclosure obligations. When the dealer obligation is waived, the selling dealer must include a description of the known defects impacting the ability of the vehicle to pass inspection. A violation of the statute is a criminal petty disorderly persons offense; however, there is a corresponding New Jersey Motor Vehicle Commission ("NJMVC") regulation that states failure to adhere to the statutory requirements concerning the Dealer's obligation can lead to suspension, revocation or refusal by the NJMVC to renew a dealer's license based on non-compliance.

Suggested Best Practices:

Dealers should review their buyer's order forms to make sure that they are compliant with the new requirement. Don't assume your form provider made the necessary changes without your asking. The NJMVC has informed dealers of this change. This means that the NJ MVC will likely start looking at Buyer's Orders when it conducts routine audits at dealerships. Dealers should continue to disclose all known issues with vehicles. Existing New Jersey Consumer Fraud laws also require dealers to refrain from making affirmative misstatements or omissions regardless of intent when selling motor vehicles. By being transparent, dealers can potentially limit liability to consumers and the NJMVC.



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*Anthony Bush is a Member in Eckert Seamans' Princeton Office and has more than two decades of commercial litigation and regulatory experience with an emphasis on issues impacting the automotive industry. His clients include operators of wholesale motor vehicle auctions, auto dealerships, wholesale auto parts distributors, finance companies, lessors, and auto body repair facilities. Tony and Eckert represent clients in corporate and consumer litigation including class actions, land use matters, business counseling, employment matters, franchise disputes, before the New Jersey Motor Vehicle Commission and New Jersey Department of Law and Public Safety, Division of Consumer Affairs, and in legislative and regulatory issues affecting the automotive industry. For more information about the NJIADA, contact Paula Frendel at njiada.pfrendel@gmail.com. For more information about any of the issues above, or any other legal issues impacting your dealership, contact **Tony Bush** at (609) 989-5056 or abush@eckertseamans.com.*

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