



Comments Received by the Department of Consumer Affairs

on

Proposed Rule related to Amendment of Dealers in Second Hand
Articles Penalty Schedule

as made available for public inspection

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June 8, 2018

VIA EMAIL TO RULECOMMENTS@DCA.NYC.GOV

Casey Adams
Deputy Director of City Legislative Affairs
New York City Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

Re: Comments on behalf of Enterprise Car Sales

Dear Mr. Adams:

Greenberg Traurig represents Enterprise Car Sales (“ECS”), a division of ELRAC, LLC d/b/a Enterprise Holdings (“Enterprise”). Greenberg Traurig hereby submits the following comments on behalf of ECS to the New York City Department of Consumer Affairs (“DCA”) in response to the DCA’s publication of the proposal to amend Section 6-19 of Subchapter B of Title 6 of the Rules of the City of New York to amend the fixed penalties for the violations of the laws and rules related to dealers of second-hand automobiles (the “Proposed Rules”).

ECS engages in direct retail car sales through more than 130 ECS locations nationwide. ECS’s inventory is comprised of used vehicles in over 250 available makes and models, most of them from Enterprise’s own fleet of rental cars. At any given time, ECS’s network has more than 6,000 vehicles for sale across the United States. Within the State of New York, ECS has four dealerships, one of which is located in Queens, NY.

Enterprise’s founder, Jack Taylor, developed a simple but enduring business philosophy that still guides Enterprise’s efforts: take care of your customers and your employees first, and the profits will follow. Embracing that philosophy, Enterprise offers a transparent process, providing no-haggle pricing and excellent customer service, which has been the cornerstone of its business for more than 50 years. Enterprise clearly marks its no-haggle price on every vehicle. The price you see is the price you pay. That is why Enterprise supported the written testimony of Greater New York Automobile Dealers Association (“GNYADA”) with respect to the DCA’s proposal to add new rules to implement Local Laws 197 and 198 of 2017 (“Administrative Code §§ 20-268.1 – 20-268.5”), and that is why Enterprise is in support of the written testimony of GNYADA with respect to the Proposed Rules. Enterprise believes that the issues presented by Administrative Code §§ 20-268.1 – 20-268.5 create confusion for second-hand automobile dealers and consumers, and given this confusion, there should be an introductory period to allow dealers to become familiar with Administrative Code §§ 20-268.1 – 20-268.5 so that they do not incur the steep fines contained in the Proposed Rules while they are learning to comply with Administrative Code §§ 20-268.1 – 20-268.5.

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We look forward to the opportunity to continue working with the DCA on this matter. We welcome the opportunity to discuss these matters further, and we are willing to meet with you. In the meantime, please feel free to contact me Julia Rogawski at 212 801 6909 if you have any questions.

Best regards,

A handwritten signature in black ink, appearing to read 'W B Mack III', with a long horizontal flourish extending to the right.

William B. Mack III
Shareholder



Greater New York
Automobile Dealers
Association

June 8, 2018

Via Email (rulecomments@dca.nyc.gov, cadams@dca.nyc.gov)

Casey Adams

Director of City Legislative Affairs

New York City Department of Consumer Affairs

42 Broadway, 8th Floor

New York, NY 10004

Dear Mr. Adams:

This letter is additional testimony from the Greater New York Automobile Dealers Association (GNYADA) regarding the Proposed Amendments to Section 6 – 19 of Subchapter B of Title 6 of the Rules of the City of New York, establishing fixed penalties for violations of the laws and rules related to secondhand automobile dealers.

GNYADA is a not-for-profit trade association representing nearly 400 franchised new vehicle dealers in the downstate region of New York. GNYADA members are engaged in the retail sale and leasing of new and used vehicles, as well as their service and repair.

New York metropolitan dealers generate over 68,000 jobs, which is 7.2% of total retail employment in the region, with over 10,600 of these jobs in New York City. Annual payroll compensation from these businesses adds up to \$4.08 billion. Dealers also invest in their communities in the form of \$265 million in capital improvement to facilities and \$20.7 million in charitable contributions.

GNYADA opposes the penalties proposed for violations of Administrative Code §§ 20-268.1 – 20-268.5. They are excessive compared to the fines imposed for similar violations. The fines for these five violations are identical – \$750 for a first violation, \$900 for a second violation, and \$1,000 for third and subsequent violations as well as all defaults. Additionally, there is neither opportunity to cure before such fines are imposed nor a phase-in period for (1) DCA to reach out to businesses to inform them of the new requirements and (2) allow businesses to reach out to their forms providers and software systems to ensure that all processes are compliant with the laws that give rise to these fines (197 and 198 of 2017) before fines can be incurred.



In contrast to the steep fines proposed for violations of Administrative Code §§ 20-268.1 – 20-268.5, other violations of the Administrative Code and the Rules of the City of New York related to secondhand automobile sales are almost uniformly \$375 for a first violation, \$450 for a second, and \$500 for third and subsequent violations as well as all defaults.

Not only are the laws 197 and 198 of 2017 unprecedented in their scope (i.e. requiring a retail establishment to disclose its profits to customers) but these penalties are excessive and out of step with the penalties for similar violations.

On behalf of GNYADA members, we respectfully request:

1. That the penalties for violations of 197 and 198 of 2017 be consistent with the amounts DCA charges for similar violations;
2. That dealers be given an opportunity to cure before a first violation is given;
3. That there be a 12-month phase-in period before violations or penalties can be incurred for failure to comply with laws 197 and 198 of 2017.

Very truly yours,

A handwritten signature in black ink that reads "Mark Schienberg". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Mark Schienberg
President