

# California Auto Dealer Advertising Law Manual

Manning, Leaver, Bruder & Berberich  
Attorneys At Law  
Los Angeles, California

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Manning, Leaver, Bruder & Berberich  
Attorneys At Law  
5750 Wilshire Boulevard, Suite 655  
Los Angeles, California 90036  
Phone 323.937.4730 Fax 323.937.6727  
[www.manningleaver.com](http://www.manningleaver.com)  
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## Introduction To This Manual

This manual is intended to serve as a guide for California automobile dealers in vehicle advertising. Automobile dealer advertising is one of the most highly regulated areas in California. The laws are numerous and sometimes complex and difficult to apply in individual situations. Although this manual is written by attorneys experienced in automobile dealer advertising law, it should not be considered as legal advice or a substitution for legal advice. It should rather be taken as a guide to the recognition of legal issues and the general rules of law applicable.

### About the Authors, Manning, Leaver, Bruder & Berberich

This manual is authored by Manning, Leaver, Bruder and Berberich, Attorneys in Los Angeles, California. Manning, Leaver, Bruder and Berberich is a general commercial and civil litigation law firm that has provided legal services to the automobile dealers and the automobile dealer-related industry for over 60 years. The firm represents various dealer associations and dealer advertising associations in California, including the California Motor Car Dealers Association, which is the statewide association of new motor vehicle dealers in California. They also represent various financial services institutions which provide wholesale and retail financing for automobile dealers. In addition to their advertising law expertise, the firm regularly practices in the areas of buying and selling of automobile dealerships, related real property purchase and lease transactions, dealer buy-ins, New Motor Vehicle Board proceedings, licensing issues, formation of business entities, estate and succession planning, employment law, and consumer and commercial litigation. See the firm's website at [www.manningleaver.com](http://www.manningleaver.com). Manning, Leaver, Bruder & Berberich are also the authors of two interactive websites designed to help dealers in complying with advertising laws. The websites are described below.

### Sources of Advertising Law

Advertising law comes from laws, regulations, court decisions, and administrative agency guidelines and interpretations.

**Laws.** Laws consist of the various statutes enacted by the U.S. Congress and State Legislatures. There are federal laws regulating credit and lease advertising. In California there are laws in the California Business and Professions Code, the Civil Code, and the Vehicle Code which regulate dealer advertising. The laws are quoted throughout this manual and are specifically identified by reference to the various codes in which they are contained.

**Regulations.** Regulations add more detail to the statutes. Regulations are promulgated by various governmental agencies in accordance with legislative authority given to a particular agency. The Federal Trade Commission has enacted various regulations applicable to dealer

advertising. These are referred to throughout this manual as various FTC Guides. The Federal Reserve Board has enacted Regulation Z and Regulation M regulating credit sales and lease advertising which implement the federal statutes in this area. Regulation Z and Regulation M are cited in various locations throughout this manual. The California Department of Motor Vehicles has also promulgated specific regulations dealing with automobile dealer advertising and these regulations are quoted throughout this manual.

**Court Decisions.** Court decisions determine how laws and regulations are applied to specific cases. Both federal and state appellate court cases provide rules for dealer advertising. These appellate court cases are normally binding on lower courts. Consequently, the rules that come out of these cases must generally be followed. Various rules set forth in this manual come from court cases.

**Administrative Agency Interpretations and Guidelines.** Sometimes administrative agencies, such as the Department of Motor Vehicles, issue interpretations of various laws or give guidelines regarding compliance with laws. In California, the Department of Motor Vehicles periodically issues such interpretations and/or guidelines and advises dealers that the interpretations or guidelines must be followed. If not followed, there is a risk of some administrative action against the dealer's license and also the possibility of civil penalties.

## How to Use this Manual

**Table of Contents.** The various chapter topics discussed in this manual are all listed alphabetically under the "Table of Contents" tab. For example, to find out what the law is regarding the offering of free goods in connection with the advertising or sale of a vehicle, simply check the Table of Contents where you will see a Chapter entitled Free Goods and Services.

**Index.** A complete index to all of the subjects discussed in the chapter topics is listed under the "Index". Simply locate the subject in which you have an interest in the index and the corresponding page number of that subject is given.

**Cross-References.** Topics related to a particular chapter topic are given in the cross-references section of the various chapters. Review the chapter which is cross-referenced for the related topic.

**Examples.** At the end of various chapters you will find references to examples of good and bad advertising related to the topic in the particular chapter. Some examples cover topics discussed in several chapters. The examples appear under the "Examples" section of this manual. The examples explain why the good examples are good and why the bad examples are bad.

**Statutes and Regulations.** The actual text of various statutes and regulations is quoted in many of the topic chapters. All of the statutes and regulations referred to in this manual are quoted under the "Statutes & Regulations" Appendix. An additional Table of Contents at the

beginning of the Statutes and Regulations section will assist you in locating the various statutes and regulations.

## General Principles; Penalties; Persons Liable

For the general principles of advertising law, including the standards that must be followed in any advertising, see Chapter 56, Truth in Advertising. To determine the penalties that result from unlawful advertising, see Chapter 40, Penalties for Unlawful Advertising. For a discussion of the persons liable for unlawful advertising, see Chapter 41, Persons Liable for Unlawful Advertising.

## Avoiding Advertising Violations

For some recommendations on avoiding advertising violations, see Chapter 4, Avoiding Advertising Violations.

## Internet-Based Advertising Approval

Autodealerlawyers.com is an interactive website developed by Manning, Leaver, Bruder & Berberich (MLBB) for online approval of advertisements for California vehicle dealers. The dealer, or the dealer's agency or newspaper, uploads an ad to the website in PDF format. A MLBB attorney reviews the ad and make comments directly on the ad copy. The dealer, or the dealer's representative, is then notified that the attorney comments are ready for review and the ad is revised to be in compliance. The ad is then uploaded to the website again and the attorney gives final approval. By use of the Internet, turnaround time for approval is very short. A full copy of this advertising manual is on the website. To obtain more information, call (323) 937-4730 and ask to speak to any one of the MLBB Partners.

## AutoAdChecker.com

AutoAdChecker.com is a password-protected online computer program developed by Manning, Leaver, Bruder & Berberich to assist vehicle dealers in complying with advertising laws. An online interview process produces the wording of a dealer's specific ad. The ad can then be printed and sent or e-mailed to media. There are a number of other advertising tools on the website, including the full version of this advertising manual. To see a demonstration of the program, go to [www.autoadchecker.com](http://www.autoadchecker.com) and where it says Non-Members, enter the Advertisement Code of: aacdemo.

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