



*** * * IMPORTANT ALERT: Regulatory & Legal * * ***
Damage Disclosure Reminder

TO: CADA Members
FROM: Tim Jackson
SUBJECT: Reminder of prior damage disclosure requirements / reports of hail damaged cars
DATE: September 3, 2008
ATTACHED: Sample damage disclosure form, CADA Form No. 605

This is to remind you of the following applicable statutes and regulations that cover the issue of prior damage disclosure. It has come to our attention that some manufacturers may be offering/providing large quantities of new cars that sustained some prior hail damage to their dealers (*specifically Audi and Subaru have been mentioned recently*). We also frequently receive calls about damage disclosure requirements.

While some states do have specific monetary damage limits above which any prior damage to a car must be disclosed to the consumer, Colorado does not. Generally in Colorado, the governing statutes and regulations require disclosure of damage that is "**MATERIAL**." This is a vague term, and because 'material' generally is interpreted in light of each, particular customer, **CADA's business advice is to disclose ALL prior damage of which the dealership has knowledge**. Some attorneys have also suggested taking photograph(s) of the damage and keeping a copy of the photo in the deal jacket.

KEY DAMAGE DISCLOSURE PROVISIONS – COLORADO

REGULATION 12-6-118 (3)(i). A copy of the completed contract form shall be given to the purchaser when signed by both parties. A dealer, wholesaler, or auction dealer **shall disclose** on the contract form when a motor vehicle is **known** by the dealer, wholesaler or auction dealer to be a salvage vehicle as defined in C.R.S. 42-6- 102(10.6), **OR when a motor vehicle is known to have sustained material damage at any one time from any one incident.** (1 C.C.R. 205-1)

Colorado Consumer Protection Act

C.R.S. 6-1-708. Motor vehicle sales and leases - deceptive trade practices.

(1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person: . . . (b) **Fails to disclose in writing, prior to sale, to the purchaser** that a motor vehicle

- is a salvage vehicle, as defined in section 42-6-102 (13), C.R.S.,
- that a vehicle was repurchased by or returned to the manufacturer from a previous owner for inability to conform the motor vehicle to the manufacturer's warranty in accordance with article 10 of title 42, C.R.S., or with any other state or federal motor vehicle warranty law, OR
- **knowingly fails to disclose, in writing, prior to sale, to the purchaser that a motor vehicle has sustained material damage at any one time from any one incident.**

IMPORTANT NOTE: Violation of the Consumer Protection Act may not only result in discipline and/or fines by the Dealer Board, the statute also provides for civil damages and attorneys fees.