

57-12-6. Misrepresentation of motor vehicles; penalty.

A. The willful misrepresentation of the age or condition of a motor vehicle by any person, including regrooving tires or performing chassis repair, without informing the purchaser of the vehicle that the regrooving or chassis repair has been performed, is an unlawful practice within the meaning of the Unfair Practices Act [Chapter 57, Article 12 NMSA 1978], unless the alleged misrepresentation is based wholly on repair of damage, the disclosure of which was not required pursuant to Subsection C of this section. The failure to provide an affidavit pursuant to Subsection B of this section when there has been repair for which disclosure is required shall constitute prima facie evidence of willful misrepresentation.

B. Except as provided in Subsections C and D of this section, a seller of a motor vehicle shall furnish at the time of sale of a motor vehicle an affidavit that:

(1) describes the vehicle; and

(2) states to the best of the seller's knowledge whether there has been an alteration or chassis repair due to wreck damage.

C. No affidavit shall be required pursuant to this section if the flat rate manual cost of the alteration or chassis repair is less than six percent of the sales price of the vehicle.

D. In the case of a private-party sale of a vehicle, an affidavit shall be furnished only upon the request of the purchasing party.

E. Notwithstanding the provisions of Subsection D of Section 57-12-10 NMSA 1978, the award of three times actual damages as provided for in that section shall be in lieu of any award of punitive damages based only on those facts constituting the unfair or deceptive trade practice or unconscionable trade practice.

F. Any person who violates this section is guilty of a misdemeanor.