

D17 LEGAL BULLETIN

Advice for Guardians of the Last Frontier



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Consumer Law Series

Number 1A: Yo-yo Sales Abridged

The A-B-Cs of Yo-yo Sales

This D17 Legal Bulletin covers the basics of yo-yo sales. For a more detailed analysis, see our December 2019 Legal Bulletin entitled “Yo-yo Sales: Definitely Not Fun and Games.”

What is a Yo-yo Scam?

A yo-yo scam can occur when a prospective purchaser of a vehicle, usually with sketchy credit, allows a dealer to arrange the buyer’s financing and then takes immediate delivery of the vehicle. Even though no lender has approved a loan, the dealer presents the buyer with several legal documents that make the sale look final and allows the customer to take the vehicle “on-the-spot.”

In reality, financing has not been approved by any lender—and likely never will be. The dealer intended to assign the loan to a lending institution, such as a bank or credit union, at a hefty profit. Unable to do so, the dealer calls the buyer days or even weeks later claiming “financing fell through” and demanding the buyer return to the dealership to fix the problem. By then, the buyer has become attached to the vehicle and is faced with two equally bad options: either agree to substantially different financing terms that give the dealer more profit, or return the vehicle.

In a true yo-yo transaction, the dealer is able miraculously to find financing, but at less favorable terms to the buyer and more profit for the dealer. But sometimes, the buyer opts to return the vehicle and face the embarrassment before family and friends to whom he already has shown it off.

Why Is it Illegal?

1. **The terms in the contract may violate state law regarding “spot sales”** by requiring fees and costs the dealer is not permitted to collect according to state law.
2. **Yo-yo sales violate state Unlawful and Deceptive Practices Act or Unfair Trade Practices Acts**, consumer protection statutes that make unfair competition and unfair or deceptive business practices illegal.
3. **Yo-yo sales violate the federal Truth in Lending Act and the Equal Credit Opportunities Act.**
4. **If you look close enough, you’ll probably find some breach of the contract itself in the execution of the deal.**

Preventative Law: What to do if you are caught in a yo-yo scam, or how to avoid falling into one altogether.

Arrange financing in advance

The absolute best way to avoid a yo-yo scam is to avoid the need for dealer-arranged financing. If you come to the dealer with **pre-approved financing already in hand**, the dealer cannot call weeks later with “bad news.” An added advantage is that you then know **exactly** how much you can spend on the vehicle, so you will avoid looking at vehicles you can’t afford. That’s power, and it just makes good consumer sense.

Be prepared to return the vehicle

In fact, expect to give the vehicle back. In Alaska, you will incur no financial risk if you return the vehicle, unless you made misrepresentations in your credit application. It’s like the dealer lent you the car. There are only two acceptable outcomes when you visit the dealer: Either you take the car home on the terms to which you originally agreed, or you return the car for a full refund of your down payment and return of your trade in. No other option is legal or acceptable.

Call Legal Assistance. Your legal assistance office is trained in consumer law and eager to engage the dealer to return your money. The legal assistance attorney can review the contract, assess your options, and help determine the best course of action.

Do not sign a new financing agreement. Under Alaska law, the contract is void if the terms of the subsequent agreement are not identical to the original agreement. You do not have to sign a new financing agreement.

Excessive eagerness can make you a victim. You’ve made it this long without this vehicle; waiting one more night before taking possession won’t kill you. Unless you are absolutely certain of your credit worthiness, don’t take the vehicle home until you are absolutely certain of approved financing.

Fire off letters/File complaints. Let as many people as possible know about the scam. File a complaint with the Better Business Bureau and your state Attorney General's office. If one is available, seek the assistance of your local Armed Forces Disciplinary Control Board.

Legal Assistance is a free benefit available to active duty service members and their dependents and retirees and their dependents for all civil legal matters, including consumer matters. Call the Legal Assistance office at (907) 487-5474 for an intake to start the process.

Need a D17 Legal Assistance Form? Visit our D17 Website at:

<https://www.pacificarea.uscg.mil/Our-Organization/District-17/Offices/Legal-office/Legal-assistance/>