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Tire Dealer Liability: Duty to warn your customer

Tire dealers have a legal obligation to their customers to ensure the installation of tires and the completion of mechanical repairs are done properly so the vehicle is safe.

Whether the tires are new, used, or have been removed for rotation or repair, there is a legal obligation to ensure that the correct tire is installed on the vehicle and that the wheel and tire do not come off during driving. Whether a product is faulty or the work is incorrectly done, damages can go beyond just physical damage to vehicle; serious motor vehicle accidents can lead to bodily injury and death.

As a tire dealer, you have a higher level of tire expertise than the average consumer. Customers depend on their tire dealer for advice and so the dealer's expertise must extend to the selection of tires and also to situations where the tires are unsafe or where there is an unsafe mechanical condition. There is a legal obligation on the part of the tire dealer to warn the customer if an unsafe condition exists and to recommend the repair or replacement of tires or parts.

If the customer refuses to have the work completed, it is imperative that the dealer document the unsafe condition on the invoice or work order and have the customer acknowledge by signature that they are aware of the unsafe condition and they refused to have the work completed. Courts have found repair garages responsible for accidents occurring from unsafe tires where the customer was not warned or where the dealer could not provide documentation to support the warning.

The Ontario Tire Dealers Association website (www.otda.com) has the following Auto Repair Disclaimer that could be used for this purpose.

Partners In Prevention

At Federated Insurance, we believe Loss Prevention is a critical component of your Risk Management Program. Your Risk Services Coordinator, together with our Loss Prevention Team, is available to assist you in this area. Working together to reduce your loss exposures protects your bottom line! For more information, contact your Risk Services Coordinator, our Loss Prevention Department at 1-800-665-1934, or visit our website at www.federated.ca

Federated Insurance provides this Loss Prevention Bulletin as a service to our policyholders and their business advisors. The information provided is intended to be general in nature, and may not apply in your province. The advice of independent legal or other business advisors should be obtained in developing forms and procedures for your business. The recommendations in this bulletin are designed to reduce the risk of loss, but should not be construed as eliminating any risk or loss.



Knowing your business matters.

AUTO REPAIR DISCLAIMER

I, _____ (Customer's Name) _____ acknowledge that I was informed by _____ (Name of Employee) _____ that the following services and/or parts were necessary to make the vehicle roadworthy, safe, or to prevent further damage to the vehicle:

I further acknowledge that I have refused to acquire such services and/or parts and acknowledge that _____ (Name of dealer or shop) _____ is not liable in contract, or under any statute or under common law caused by my refusal to acquire the described services and/or parts.

I further undertake to wholly indemnify and hold harmless _____ (Name of dealer or shop) _____ and its servants, agents, employees and assigns from any and all actions, causes of actions, claims and demands for costs damages, loss or injury, in connection with my refusal to acquire the described services and/or parts.

I acknowledge that I have read and fully understand the above acknowledgement.

Dated this _____ day of _____, 20 _____

(Witness)

(Customer)