

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 728

"TO REVISE VARIOUS PROVISIONS OF THE ARKANSAS MOTOR VEHICLE
COMMISSION ACT."

Amendment No. 1 to Senate Bill No. 728.

Amend Senate Bill No. 728 as originally introduced:

Page 1, line 26, delete "authority" and substitute "authority to enter orders directing and commanding compliance with the Arkansas Motor Vehicle Commission Act and"

AND

Delete Section 2. of the bill

AND

Delete Section 3. of the bill and substitute the new sections to the bill to read as follows:

"SECTION 2. Arkansas Code § 23-112-403(a)(2)(K)(viii), concerning the unlawful activities for manufacturers, distributors, second-stage manufacturers, importers, and converters under the Arkansas Motor Vehicle Commission Act, is amended to read as follows:

(viii) Any sums due as provided by subdivision (a)(2)(K)(i) of this section within sixty (60) days after termination of a franchise and any sums due as provided by subdivisions (a)(2)(K)(ii)-(vii) of this section within ninety (90) days after termination of a franchise. As a condition of payment, the dealer is to comply with reasonable requirements with respect to the return of inventory as are set out in the terms of the franchise agreement. A manufacturer, distributor, or representative who fails to pay those sums within the prescribed time or at such time as the dealer and lienholder, if any, proffer good title prior to the prescribed time for payment, is liable to the dealer for:

(a) The greatest of dealer cost, fair market value, or current price of the inventory;

(b) Interest on the amount due calculated at the greater of either the rate applicable to a judgment of a court, or the motor vehicle dealer's floor plan interest rate; and

(c) Reasonable attorney's fees and costs;



SECTION 3. Arkansas Code § 23-112-403(a)(2)(K), concerning the unlawful activities for manufacturers, distributors, second-stage manufacturers, importers, and converters under the Arkansas Motor Vehicle Commission Act, is amended to add an additional subdivision to read as follows:

(ix)(a) In the case of a termination, cancellation, or non renewal by a motorhome manufacturer for cause, the manufacturer shall, at the election of the motor home dealer, within thirty (30) days of termination, repurchase all new, untitled current model year motor home inventory, acquired from the manufacturer, that have not been altered, used, except for demonstration purposes, or damaged to the extent that damage is disclosed to a consumer, at one hundred percent (100%) of the net invoice cost, including transportation, less applicable rebates and discounts to the dealer and all new, untitled recreation vehicle inventory of the prior model year, acquired from the manufacturer, provided the prior model year vehicles have not been altered, used, except for demonstration purposes, or damaged to the extent that damage is disclosed to a consumer and were drafted on the dealer's financing source or paid for within one hundred twenty (120) days before the effective date of the termination, cancellation, or non-renewal.

(b)(1) In the event any of the motor homes repurchased under this subdivision (a)(2)(K)(ix) are damaged, but do not trigger the consumer disclosure requirement, the amount due the dealer shall be reduced by the cost to repair the vehicle.

(2) Damage before delivery to the dealer that is disclosed at the time of delivery shall not disqualify the repurchase under this subdivision (a)(2)(K)(ix).

(c) All current and undamaged manufacturer's accessories and proprietary parts sold to the dealer for resale, if accompanied by the original invoice, at one hundred five percent (105%) of the original net price paid to the manufacturer to compensate the dealer for handling, packing, and shipping the parts.

(d)(1) Any fully and correctly functioning diagnostic equipment special tools, current signage, and other equipment and machinery, at one hundred percent (100%) of the dealer's net cost plus freight, destination, delivery, and distribution charges and sales taxes, if any, provided it was purchased by the dealer within five (5) years before termination and upon the manufacturer's request and can no longer be used in the normal course of the dealer's ongoing business; and

(2) Manufacturer shall pay dealer within thirty (30) days of receipt of the returned items;

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that motor vehicle manufacturers are terminating certain makes and models of motor vehicles in Arkansas and in the United States; that motor vehicle manufacturers are placing a burden on the motor vehicle dealers to contend with this problem; that the Arkansas Motor Vehicle Commission Act needs to be amended to contend with these events; and that this act is immediately necessary because the financial well-being of Arkansas motor vehicle dealers is at stake. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become

effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill;
or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Capps
EAN/APK - 032720031506
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Secretary