

**REPORT OF THE  
OCCUPATIONAL LICENSING REVIEW SUBCOMMITTEE  
OF THE  
ARKANSAS LEGISLATIVE COUNCIL**

**December 18, 2020**

---

Senator Bledsoe and Representative Wardlaw, Co-Chairs:

The Occupational Licensing Review Subcommittee met Tuesday, December 15, 2020, in Committee Room A, Multi Agency Complex, Little Rock, Arkansas. The Subcommittee adopted the ALC Occupational Licensing Review Subcommittee final report of its recommendations as required by Subcommittee Rule 3(d). The final report is attached.

Respectfully Submitted,

Senator Missy Irvin, Co-Chair

Representative Richard Womack, Co-Chair

# **Final Report to the Arkansas Legislative Council**

## *Occupational Licensing Review Subcommittee*

December 18, 2020

### **I. Background**

Act 600 of the 2019 Regular Session, the Red Tape Reduction Sunrise and Sunset Act of 2019, tasked the Legislative Council with conducting an annual rotating review of all occupational authorizations in the state with the purpose of determining and implementing the least restrictive form of occupational authorization to protect consumers from significant and substantiated harms to public health and safety. The Legislative Council (ALC) created the Occupational Licensing Review Subcommittee to carry out this requirement for review.

The rules of the ALC Occupational Licensing Review Subcommittee (the “Subcommittee”) required that the Subcommittee shall submit to ALC its recommendations during the December meeting of each even-numbered year. The recommendations may include the following: repeal of an occupational authorization, conversion of an occupational authorization to a less restrictive occupational authorization, promulgation of revised rules reflecting the use of less restrictive occupational authorization, modification of qualifications for an occupational authorization, modification or redefinition of the scope of practice of an occupation or profession, or any other relevant legislative reforms deemed necessary. Upon adoption of any of the recommendations of the Subcommittee by ALC, the recommendations shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

### **II. Work of the Subcommittee in 2019 & 2020**

Beginning in June of 2019, the Subcommittee determined the schedule for review of entities and process for discussions of final recommendations. In addition, the Subcommittee adopted their rules and sorted occupational authorization entities into six groups for systematic review. Continuing its foundational work in September of 2019, the Subcommittee reviewed and approved the method by which entities would submit their reports on occupational authorizations to the Subcommittee. The Subcommittee also assigned entities to a hearing date, thereby establishing the deadline for each entity to submit their respective reports for review by the Subcommittee.

The Subcommittee began hearing occupational authorization entity reports in November of 2019. At the following meeting, the Subcommittee discussed possible recommendations from the reports heard previously as well as the reports assigned to that meeting. This pattern was followed until the Subcommittee heard all reports and discussed all recommendations made. In September of 2020, the Subcommittee began discussions of the draft legislation to prepare the final packet of legislation and to submit a report in December of 2020 to ALC, the Speaker of the House of Representatives, and the Pro Tempore of the Senate.

### **III. Recommendations by the Subcommittee**

#### **A. Arkansas Fire Protection Licensing Board**

The Subcommittee recommends that the occupational authorization licensure requirement for individual Sprinkler Fitters be repealed. The purpose is to eliminate a “double licensure” as the business who employs Sprinkler Fitters is additionally required to carry a business license. (See MLD234, *An Act to Amend the Powers and Duties of the Arkansas Fire Protection Licensing Board; To Remove Licensing Requirements for Sprinkler System Fitters*, [Appendix A](#).)

#### **B. Arkansas Motor Vehicle Commission**

The Subcommittee recommends that the occupational authorization licensure requirement for individual Motor Vehicle Salespersons and New Recreational Vehicle Salespersons be repealed. The purpose is to eliminate a “double licensure” as the dealership who employs Motor Vehicle Salespersons and New Recreational Vehicle Salespersons is additionally required to carry a business license. (See MLD239, *An Act to Amend the Arkansas Motor Vehicle Commission Act; To Amend the Recreational Vehicle Franchise Act; To Remove Licensing Requirements for a Motor Vehicle Salesperson and a New Recreational Vehicle Salesperson*, [Appendix B](#).)

#### **C. Arkansas State Board of Physical Therapy**

The Subcommittee recommends that the Arkansas State Board of Physical Therapy evaluate and restructure the licensure fees for any occupational authorization related to the practice of physical therapy. (See JMB016, *An Act to Require Evaluation and Restructuring of Licensure Fees Related to the Practice of Physical Therapy*, [Appendix C](#).)

#### **D. Arkansas State Plant Board: Feed and Fertilizer Division**

The Subcommittee recommends that the occupational authorization for Lime Vendor (Applicator) licensure requirement to be eliminated and for the Lime Vendor (Applicator) authorization to be modified into registration only. (See MLD006, *An Act to Amend the Arkansas Agricultural Liming Materials Act; To Eliminate the Lime Applicator License*, [Appendix D](#).)

#### **E. Arkansas Department of Health: Engineering Section**

The Subcommittee recommends that the Arkansas Department of Health waive the rule requirements for the number of approved training instruction hours for the renewal of licenses for rural water treatment operator licensees due to the impacts from COVID-19.

### **IV. Conclusion**

The Subcommittee is working toward the introduction of legislation during the 2021 legislative session. It is the intention of the Subcommittee to strive to fulfill its mandate under the Act to determine and implement the least restrictive form of occupational authorizations to protect consumers from significant and substantiated harms to public health and safety.

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
First Extraordinary Session, 2020

# A Bill

DRAFT MLD/MLD  
HOUSE BILL

By: Representative <NA>

## For An Act To Be Entitled

AN ACT TO AMEND THE POWERS AND DUTIES OF THE ARKANSAS  
FIRE PROTECTION LICENSING BOARD; TO REMOVE LICENSING  
REQUIREMENTS FOR SPRINKLER SYSTEM FITTERS; AND FOR  
OTHER PURPOSES.

## Subtitle

TO AMEND THE POWERS AND DUTIES OF THE  
ARKANSAS FIRE PROTECTION LICENSING BOARD;  
AND TO REMOVE LICENSING REQUIREMENTS FOR  
SPRINKLER SYSTEM FITTERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-22-607(1)(E)-(G), concerning the powers  
and duties of the Arkansas Fire Protection Licensing Board, are amended to  
read as follows:

(E) The examination and licensure of a person applying for  
a license as a responsible managing employee for the purpose of fire  
protection sprinkler system business, including designing, inspecting,  
installing, system layout, or servicing fire protection sprinkler systems,  
including standpipe, fire pumps, and hose systems; and

(F) The examination and licensure of a person applying for  
a license as a fire protection sprinkler systems inspector for the purpose of  
servicing or inspecting fire protection sprinkler systems, including  
standpipe, fire pumps, and hose systems; ~~and~~

~~(G) The examination and licensure of a person applying for  
a license as a fire protection sprinkler system sprinkler fitter or~~

DRAFT

01/27/2020 10:34:15 AM MLD234

~~apprentice for the purpose of installing, servicing, or placing fire protection sprinkler systems in service, including without limitation standpipe, fire pumps, and hose systems;~~

SECTION 2. Arkansas Code § 20-22-607(3) and (4), concerning the powers and duties of the Arkansas Fire Protection Licensing Board, are amended to read as follows:

(3) Conduct examinations to ascertain the qualifications and fitness of individual applicants to install or service portable fire extinguishers, ~~install or service fixed fire protection systems,~~ or to install, service, inspect, or design fire protection sprinkler systems;

(4) Issue:

(A) ~~certificates~~ Certificates of registration for those firms that qualify and individual licenses and permits to individuals that qualify to:

(i) ~~engage~~ Engage in the business and activity of installing and servicing portable fire extinguishers, ~~installing and servicing fixed fire protection systems, and designing, installing, inspecting, or servicing;~~ or

(ii) Design or inspect fire protection sprinkler systems; and

(B) ~~issue licenses~~ Licenses or permits to those firms and individuals qualifying to perform hydrostatic testing of fire extinguisher cylinders;

SECTION 3. Arkansas Code § 20-22-609(2) and (3), concerning the license, permit, or certificate required for compliance with this subchapter, are amended to read as follows:

(2) Engage in the business of ~~installing, inspecting, or servicing~~ fixed fire protection systems without a current certificate of registration;

(3) Install, inspect, or service portable fire extinguishers or inspect fixed fire protection systems without a current individual license;

SECTION 4. Arkansas Code § 20-22-609(6)-(8), concerning the license, permit, or certificate required for compliance with this subchapter, are

1 amended to read as follows:

2 (6) Sell, service, inspect, or install portable fire  
3 extinguishers, ~~fixed fire protection systems, or fire protection sprinkler~~  
4 ~~systems~~ contrary to this subchapter or the policies formulated and  
5 administered under the authority of this subchapter;

6 (7) Sell or inspect fixed fire protection systems or fire  
7 protection sprinkler systems contrary to this subchapter or the policies  
8 formulated and administered under the authority of this subchapter;

9 (8) Engage in ~~any~~ a fire protection sprinkler system business  
10 without a current certificate of registration and without employing a full-  
11 time licensed responsible managing employee; and

12 ~~(8)(9)~~ Engage in ~~any~~ a business or activity licensed or  
13 permitted by the Arkansas Fire Protection Licensing Board without maintaining  
14 in force at all times a public liability insurance policy, with minimum  
15 coverage limits as set by the board, covering the person's operations and  
16 completed operations.

17  
18 SECTION 5. Arkansas Code § 20-22-610(b)(1), concerning the application  
19 and fees for a license, permit, or certificate, is amended to read as  
20 follows:

21 ~~(b)(1) Each firm or person desiring to engage in or to continue to~~  
22 ~~engage in the business of installing, inspecting, or servicing portable fire~~  
23 ~~extinguishers, selling, inspecting, installing, or servicing fixed fire~~  
24 ~~protection systems, performing hydrostatic testing of fire extinguishers or~~  
25 ~~fire extinguisher cylinders, or planning, selling, installing, maintaining,~~  
26 ~~inspecting, or servicing fire protection sprinkler systems in the State of~~  
27 ~~Arkansas as a condition of engaging or continuing to engage in such a~~  
28 ~~business shall obtain from the board a certificate of registration and~~  
29 ~~appropriate individual licenses as prescribed in this subchapter.~~

30 (b)(1) As a condition of engaging or continuing to engage in a  
31 business listed under this subdivision in the State of Arkansas, each firm or  
32 person shall obtain from the board a certificate of registration and  
33 appropriate individual licenses as prescribed in this subchapter. This  
34 condition applies to a business:

35 (A) Installing, inspecting, or servicing portable fire  
36 extinguishers;

1           (B) Selling or inspecting fixed fire protection systems;

2           (C) Performing hydrostatic testing fo fire extinguishers or fire  
 3 extinguisher cylinders; or

4           (D) Planning, selling, or inspecting fire protection sprinkler  
 5 systems.

6  
 7           SECTION 6. Arkansas Code § 20-22-610(b)(3), concerning the application  
 8 and fees for a license, permit, or certificate, is amended to read as  
 9 follows:

10           (3) Each employee of a registered firm who engages in  
 11 installing, inspecting, or servicing portable fire extinguishers or selling  
 12 ~~or , installing, inspecting, or servicing~~ fixed fire protection systems,  
 13 other than an apprentice, shall obtain an individual license and pay the  
 14 following fees:

15           (A) For a license to install, inspect, or service portable  
 16 fire extinguishers, an initial fee of no more than one hundred dollars  
 17 (\$100), and for each annual renewal thereof a fee of no more than fifty  
 18 dollars (\$50.00); and

19           (B) For a license to sell or , install, inspect,~~or~~  
 20 ~~service~~ fixed fire protection systems, an initial fee of no more than one  
 21 hundred dollars (\$100), and an annual renewal fee of no more than fifty  
 22 dollars (\$50.00).

23  
 24           SECTION 7. Arkansas Code § 20-22-610(b)(6)(A), concerning the  
 25 application and fees for a license, permit, or certificate, is amended to  
 26 read as follows:

27           (6)(A) An employee of a registered firm who has been issued an  
 28 apprentice permit may ~~service, inspect, and install~~ fire protection sprinkler  
 29 systems, service, inspect, and install portable fire extinguishers, and  
 30 inspect fixed fire protection systems under the direct supervision of a  
 31 licensed employee subject to rules promulgated by the board.

32  
 33           SECTION 8. Arkansas Code § 20-22-611(a), the introductory language  
 34 concerning the qualifications for a license, permit, or certificate, is  
 35 amended to read as follows:

36           (a) For a license to install or service portable fire extinguishers,

1 for a license to sell, ~~install, or service~~ fixed fire protection systems, or  
2 for a license to conduct ~~any~~ a fire protection sprinkler system business, a  
3 person employed by a certified firm shall obtain a license issued by the  
4 Arkansas Fire Protection Licensing Board after:

5  
6 SECTION 9. Arkansas Code § 20-22-613(f)-(j), concerning actions by the  
7 Arkansas Fire Protection Licensing Board, are amended to read as follows:

8 (f) Except as provided in § 20-22-603, only the holder of a current  
9 and valid license or an apprentice permit issued under this subchapter may  
10 service portable fire extinguishers, ~~install and maintain fixed fire~~  
11 ~~protection systems, or install or maintain fire protection sprinkler systems.~~

12 (g) A person who has been issued a license or permit under this  
13 subchapter to service portable fire extinguishers, ~~install or service fixed~~  
14 ~~fire protection systems, or install and service fire protection sprinkler~~  
15 ~~systems~~ shall be an employee, agent, or servant of a firm that holds a  
16 current and valid certificate of registration issued under this subchapter.

17 ~~(h) Installation and servicing of fixed fire protection systems shall~~  
18 ~~be accomplished under the rules of the board.~~

19 ~~(i) Installation and servicing of fire protection sprinkler systems~~  
20 ~~shall be accomplished in accordance with the rules of the board.~~

21 ~~(j)-(1)(h)(1)~~ Any A fire protection sprinkler system that was installed  
22 before September 1, 1985, shall be ~~serviced, maintained, inspected, and~~  
23 ~~repaired~~ under the current rules of the board.

24 (2) Any A fixed fire protection system that was installed before  
25 January 1, 1979, shall be ~~serviced, maintained, inspected, and repaired~~ under  
26 current rules of the board.



Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
First Extraordinary Session, 2020

## A Bill

DRAFT MLD/MLD  
HOUSE BILL

By: Representative <NA>

### For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS MOTOR VEHICLE COMMISSION  
ACT; TO AMEND THE RECREATIONAL VEHICLE FRANCHISE ACT;  
TO REMOVE LICENSING REQUIREMENTS FOR A MOTOR VEHICLE  
SALESPERSON AND A NEW RECREATIONAL VEHICLE  
SALESPERSON; AND FOR OTHER PURPOSES.

### Subtitle

TO REMOVE LICENSING REQUIREMENTS FOR  
CERTAIN PROFESSIONS UNDER THE ARKANSAS  
MOTOR VEHICLE COMMISSION ACT AND THE  
RECREATIONAL VEHICLE FRANCHISE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 23-112-301(a)(2), concerning required  
licenses under the Arkansas Motor Vehicle Commission Act, is amended to read  
as follows:

(2) For any person to engage in business as, serve in the  
capacity of, or act as a new motor vehicle dealer, ~~motor vehicle salesperson,~~  
motor vehicle lessor, manufacturer, importer, distributor, factory branch or  
division, distributor branch or division, factory representative, distributor  
representative, second-stage manufacturer, or converter, as such, in Arkansas  
without first obtaining a license therefor as provided in this chapter,  
regardless of whether or not the person maintains or has a place of business  
in Arkansas.

SECTION 2. Arkansas Code § 23-112-301(d), concerning required licenses

DRAFT

06/02/2020 2:22:07 PM MLD239

1 under the Arkansas Motor Vehicle Commission Act, is amended to read as  
2 follows:

3 (d)(1) ~~No person may~~ A person shall not engage in the business of  
4 buying, selling, or exchanging motor vehicles, unless he or she+

5 ~~(A) Holds a valid license issued by the commission for the~~  
6 ~~makes of motor vehicles being bought, sold, or exchanged; or~~

7 ~~(B) Is~~ is a bona fide employee or agent of the licensee.

8 (2) ~~For purposes of~~ As used in this subsection, "engage in the  
9 business of buying, selling, or exchanging motor vehicles" means:

10 (A) Displaying for sale motor vehicles on a lot or  
11 showroom;

12 (B) Advertising for sale new motor vehicles regardless of  
13 the medium used; or

14 (C) Regularly or actively soliciting buyers for motor  
15 vehicles.

16  
17 SECTION 3. Arkansas Code § 23-112-303(c) and (d), concerning required  
18 license application fees under the Arkansas Motor Vehicle Commission Act, are  
19 amended to read as follows:

20 (c) The schedule of license fees to be charged and received by the  
21 Arkansas Motor Vehicle Commission for the licenses issued ~~pursuant to~~ under  
22 this subchapter shall be as follows:

23 (1) For each manufacturer, distributor, factory branch and  
24 division, or distributor branch and division, second-stage manufacturer,  
25 importer, and converter, nine hundred dollars (\$900);

26 (2) For each motor vehicle dealer or motor vehicle lessor, one  
27 hundred dollars (\$100);

28 (3) For each manufacturer, distributor, or factory  
29 representative, four hundred dollars (\$400);

30 (4) ~~For each motor vehicle salesperson, fifteen dollars~~  
31 ~~(\$15.00);~~

32 (5) For each branch location, twenty-five dollars (\$25.00); and

33 ~~(6)~~ (5) For each replacement certificate of license, ten dollars  
34 (\$10.00).

35 (d)(1) ~~Any~~ A person, firm, or corporation required to be licensed  
36 under this subchapter ~~who~~ that fails to make application for the license at

1 the time required shall pay a penalty of fifty percent (50%) of the amount of  
2 the license fee for each thirty (30) days of default, in addition to the fees  
3 required to be paid pursuant to subsection (c) of this section.

4 (2) However, the The penalty under subdivision (d)(1) of this  
5 section may be waived, in whole or in part, within the discretion of the  
6 commission.

7 ~~(2) License applications for sales personnel shall be received~~  
8 ~~in the commission office within thirty (30) days of employment.~~

9  
10 SECTION 4. Arkansas Code § 23-112-306 is repealed.

11 ~~23-112-306. Display of license Change of employer Salesperson.~~

12 ~~(a) Every motor vehicle salesperson shall have his or her license upon~~  
13 ~~his or her person or displayed at his or her place of employment, except as~~  
14 ~~provided in this section, when engaged in his or her business and shall~~  
15 ~~display the license upon request. The name and address of the applicant shall~~  
16 ~~be stated on the license.~~

17 ~~(b) In case of a change of employer, the following procedure shall be~~  
18 ~~adhered to:~~

19 ~~(1) Within three (3) days following the change, the licensee~~  
20 ~~shall notify in writing the Arkansas Motor Vehicle Commission for its~~  
21 ~~endorsement;~~

22 ~~(2) Within three (3) days following the termination of~~  
23 ~~employment of the licensee, the last employer of the licensee shall make a~~  
24 ~~report to the commission setting forth the reasons why the services of the~~  
25 ~~licensee were terminated and such other information as may be required by the~~  
26 ~~commission;~~

27 ~~(3) Upon receipt by the commission of the licensee's written~~  
28 ~~notification and the last employer's report, the commission shall determine~~  
29 ~~if it has grounds to believe, and does believe, that the licensee is no~~  
30 ~~longer qualified under the provisions of this chapter as a motor vehicle~~  
31 ~~salesperson. Under such circumstances, the commission shall immediately~~  
32 ~~notify the licensee and the licensee's new employer in writing that a hearing~~  
33 ~~will be held for the purpose of determining whether his or her license should~~  
34 ~~be revoked or suspended, specifying the grounds for revocation or suspension,~~  
35 ~~as the case may be, and the time and place for the hearing. The hearing and~~  
36 ~~any and all appeals by the licensee with respect thereto shall be in~~

1 ~~accordance with the provisions of § 23-112-501 et seq., and~~

2 ~~(4)(A) If, after the commission receives the licensee's license~~  
 3 ~~and fee and his or her last employer's report, the Executive Director of the~~  
 4 ~~Arkansas Motor Vehicle Commission cannot for any reason endorse and mail to~~  
 5 ~~the licensee his or her license within a period of three (3) days following~~  
 6 ~~the receipt by the commission of the licensee's license and fee and his or~~  
 7 ~~her last employer's report, then and in that event the executive director~~  
 8 ~~shall mail to the licensee a permit in such form as the commission shall~~  
 9 ~~prescribe.~~

10 ~~(B) The permit shall serve in lieu of a license until such~~  
 11 ~~time as the commission endorses and mails the license to the licensee, or~~  
 12 ~~until such time as the licensee's license is revoked or suspended in~~  
 13 ~~accordance with the provisions of this chapter.~~

14 ~~(C) If the license is ultimately revoked or suspended,~~  
 15 ~~then immediately upon the revocation or suspension the licensee shall return~~  
 16 ~~the permit to the commission for cancellation.~~

17 ~~(c) The commission shall maintain a permanent file with respect to~~  
 18 ~~each licensed motor vehicle salesperson. Each file shall contain all~~  
 19 ~~pertinent information with respect to the fitness and qualifications of each~~  
 20 ~~licensee for the use by the commission in determining from time to time~~  
 21 ~~whether his or her license should be revoked or suspended.~~

22 ~~(d) There is no intent under this chapter to prevent a salesperson who~~  
 23 ~~has not previously been licensed as a salesperson from selling during the~~  
 24 ~~time required to process his or her application. The applicant shall be~~  
 25 ~~allowed to sell from the date of employment as long as the applicant and his~~  
 26 ~~or her dealer follow the procedure for license application.~~

27  
 28 SECTION 5. Arkansas Code § 23-112-307 is amended to read as follows:

29 23-112-307. Expiration of license.

30 Unless the Arkansas Motor Vehicle Commission by rule provides to the  
 31 contrary, all licenses issued to:

32 (1) Manufacturers, distributors, factory or distributor  
 33 branches, importers, second-stage manufacturers, converters, and their  
 34 representatives expire June 30 following the date of issue; and

35 (2) Motor vehicle dealers, ~~motor vehicle salespersons,~~ and motor  
 36 vehicle lessors expire December 31 following the date of issue.

1  
2 SECTION 6. Arkansas Code § 23-112-308(a), concerning the denial,  
3 revocation, and suspension of licenses under the Arkansas Motor Vehicle  
4 Commission Act, is amended to read as follows:

5 (a) Notwithstanding any other statute, the Arkansas Motor Vehicle  
6 Commission may deny an application for a license or revoke or suspend a  
7 license after it has been granted for any of the following reasons:

8 ~~(1)(A) For selling or soliciting sales of a motor vehicle~~  
9 ~~without a license issued by the commission.~~

10 ~~(B) The unlawful sale or solicitation of each motor~~  
11 ~~vehicle shall constitute a separate offense;~~

12 ~~(2)~~ On satisfactory proof of the unfitness of the applicant or  
13 the licensee, as the case may be, under the standards established and set out  
14 in this chapter;

15 ~~(3)~~(2) For fraud practiced or any material misstatement made by  
16 an applicant in any application for license under the provisions of this  
17 chapter;

18 ~~(4)~~(3) For failure to comply with any provision of this chapter  
19 or with any rule promulgated by the commission under the authority vested in  
20 it by this chapter;

21 ~~(5)~~(4) Change of condition after license is granted or failure  
22 to maintain the qualifications for license;

23 ~~(6)~~(5) Continued violation of any of the provisions of this  
24 chapter or of any of the rules of the commission;

25 ~~(7)~~(6) For any violation of any law relating to the sale,  
26 distribution, or financing of motor vehicles;

27 ~~(8)~~(7) Defrauding any retail buyer to the buyer's damage;

28 ~~(9)~~(8) Failure to perform any written agreement with any retail  
29 buyer;

30 ~~(10)~~(9) Selling, attempting to sell, or advertising for sale  
31 vehicles from a location other than that set forth on the license;

32 ~~(11)~~(10) Falsifying, altering, or neglecting to endorse or  
33 deliver a certificate of title to a transferee or lawful owner or failing to  
34 properly designate a transferee on a document of assignment or certificate of  
35 title;

36 ~~(12)~~(11) Knowingly purchasing, selling, or otherwise acquiring

1 or disposing of a stolen motor vehicle;

2 ~~(13)~~(12) Submitting a false affidavit setting forth that a title  
3 has been lost or destroyed;

4 ~~(14)~~(13) Passing title or reassigning title as a dealer without  
5 a dealer's license or when the dealer's license has been suspended or  
6 revoked;

7 ~~(15)~~(14) For a person representing that he or she is a dealer ~~or~~  
8 ~~salesperson~~, either verbally or in any advertisement, when the person is not  
9 licensed as such;

10 ~~(16)~~(15) Assisting any person in the sale of a motor vehicle who  
11 is not licensed as a dealer by the commission;

12 ~~(17)~~(16) Being a manufacturer who fails to specify the delivery  
13 and preparation obligations of its motor vehicle dealers, as is required for  
14 the protection of the buying public, prior to delivery of new motor vehicles  
15 to retail buyers;

16 ~~(18)~~(A)(17)(A) On satisfactory proof that any manufacturer,  
17 distributor, distributor branch or division, or factory branch or division  
18 has unfairly and without due regard to the equities of the parties or to the  
19 detriment of the public welfare failed to properly fulfill any warranty  
20 agreement or to adequately and fairly compensate any of its motor vehicle  
21 dealers for labor, parts, or incidental expenses incurred by the dealer with  
22 regard to factory warranty agreements performed by the dealer.

23 (B) Compensation for parts for two-wheeled, three-wheeled,  
24 and four-wheeled motorcycles and motor-driven all-terrain vehicles must be at  
25 the manufacturer's suggested retail price;

26 ~~(19)~~(18) For the commission of any act prohibited by §§ 23-112-  
27 301 – 23-112-307, 23-112-402, and 23-112-403, or the failure to perform any  
28 of the requirements of those sections;

29 ~~(20)~~(19) Using or permitting the use of special license plates  
30 assigned to him or her for any other purpose than those permitted by law;

31 ~~(21)~~(20) Disconnecting, turning back, or resetting the odometer  
32 of any motor vehicle in violation of state or federal law;

33 ~~(22)~~(21) Accepting an open assignment of title or bill of sale  
34 for a motor vehicle which is not completed by identifying the licensee as the  
35 purchaser or assignee of the motor vehicle;

36 ~~(23)~~(A)(22)(A) Failure to notify the commission of a change in

ownership, location, or franchise, or any other matters the commission may require by ~~regulation~~ rule.

(B) The notification shall be in written form and submitted to the commission at least fifteen (15) days prior to the effective date of the change;

~~(24)~~(23) Failure to endorse and deliver an assignment and warranty of title to the buyer pursuant to § 27-14-902;

~~(25)~~(24) Using or permitting the use of a temporary cardboard buyer's tag assigned to the dealer for any purpose other than permitted under § 27-14-1705; and

~~(26)~~(25) Failure of a dealer to submit or deliver a certificate of title or manufacturer's certificate of origin within a reasonable period of time.

SECTION 7. Arkansas Code § 23-112-402 is amended to read as follows:  
23-112-402. Dealer ~~and salesperson~~.

It ~~shall be~~ is unlawful for a motor vehicle dealer ~~or a motor vehicle salesperson~~:

(1)(A) To require a purchaser of a motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, equipment, parts, or accessories not desired or requested by the purchaser.

(B) However, ~~this prohibition shall not apply the prohibition under subdivision (1)(A) of this section does not apply~~ as to special features, appliances, equipment, parts, or accessories ~~which that~~ which that are already installed on the ~~car~~ motor vehicle when received by the dealer;

(2) To represent and sell as a new motor vehicle any motor vehicle ~~which that~~ which that has been used and operated for demonstration purposes or ~~which that~~ which that is otherwise a used motor vehicle; or

(3) To resort to or use any false or misleading advertisement in connection with his or her business as a motor vehicle dealer ~~or motor vehicle salesperson~~.

SECTION 8. The introductory language of Arkansas Code § 23-112-1002(2), concerning the General Assembly's police power to regulate certain entities under the Recreational Vehicle Franchise Act, is amended to read as follows:

(2) It is necessary, in the exercise of the General Assembly's police power, to regulate and to license recreational vehicle manufacturers, factory branches and divisions, distributors, distributor branches and divisions, distributor representatives, and dealers, ~~and salespersons~~ doing business in Arkansas to:

SECTION 9. Arkansas Code § 23-112-1003(16)-(20), concerning the definitions under the Recreational Vehicle Franchise Act, are amended to read as follows:

(16) ~~"Recreational vehicle salesperson" means a person who:~~

~~(A) Is employed by a dealer as a salesperson whose duties include the selling or offering for sale of recreational vehicles;~~

~~(B) For compensation of any kind acts as a salesperson, agent, or representative of a dealer;~~

~~(C) Attempts to or in fact negotiates a sale of a recreational vehicle owned partially or entirely by a dealer; and~~

~~(D) Uses the financial resources, line of credit, or floor plan of a dealer to purchase, sell, or exchange an interest in a recreational vehicle;~~

~~(17)~~ "Supplier" means a person, firm, corporation, or business entity that engages in the manufacturing of recreational vehicle parts, accessories, or components;

~~(18)~~(17) "Transient customer" means a person who:

(A) Owns a recreational vehicle;

(B) Is temporarily traveling through a dealer's area of sales responsibility;

(C) Engages a dealer to perform service work on that recreational vehicle; and

(D) Requires repairs that relate to the safe operation of that recreational ~~vehicle that~~ vehicle, which if not undertaken are of a nature that would render that recreational vehicle unusable for its intended purpose;

~~(19)~~(18) "Travel trailer" means a recreational vehicle designed to be towed by a motorized vehicle; and

~~(20)~~(A)(19)(A) "Warrantor" means a person, firm, corporation, or business entity, including without limitation a manufacturer or supplier,

1 that provides a written warranty to the consumer in connection with a new  
 2 recreational vehicle or accessories, parts, or components of a new  
 3 recreational vehicle.

4 (B) "Warrantor" does not include service contracts,  
 5 mechanical or other insurance, or extended warranties sold for separate  
 6 consideration by a dealer or other person not controlled by a manufacturer.

7  
 8 SECTION 10. Arkansas Code § 23-112-1004(a)(2), concerning unlawful  
 9 acts regarding license requirements under the Recreational Vehicle Franchise  
 10 Act, is amended to read as follows:

11 (2) Engaging in the business as, serving in the capacity of, or  
 12 acting as a new recreational vehicle dealer, ~~recreational vehicle~~  
 13 ~~salesperson~~, recreational vehicle manufacturer, recreational vehicle  
 14 distributor, recreational vehicle factory representative, or recreational  
 15 vehicle manufacturer representative in this state without first obtaining a  
 16 license as provided in this subchapter; or

17  
 18 SECTION 11. Arkansas Code § 23-112-1004(c)(1), concerning license  
 19 requirements and application fees under the Recreational Vehicle Franchise  
 20 Act, is amended to read as follows:

21 (c)(1) A person shall not engage in the business of buying, selling,  
 22 or exchanging new recreational vehicles unless the person+

23 ~~(A) Holds a valid license issued by the Arkansas Motor~~  
 24 ~~Vehicle Commission for the make of recreational vehicles being bought, sold,~~  
 25 ~~or exchanged; or~~

26 ~~(B) Is~~ is a bona fide employee or agent of the licensee.

27  
 28 SECTION 12. Arkansas Code § 23-112-1004(d)(1)(D)-(F), concerning  
 29 license requirements and application fees under the Recreational Vehicle  
 30 Franchise Act, are amended to read as follows:

31 ~~(D) For each recreational vehicle salesperson, fifteen~~  
 32 ~~dollars (\$15.00);~~

33 ~~(E)~~ For each branch location, twenty-five dollars  
 34 (\$25.00); and

35 ~~(F)~~ (E) For each replacement certificate of license, ten  
 36 dollars (\$10.00).

1  
2 SECTION 13. Arkansas Code § 23-112-1008 is repealed.

3 ~~23-112-1008. Display of license—Change of employer—Salesperson.~~

4 ~~(a)(1) Except as provided in this section, a recreational vehicle~~  
5 ~~salesperson shall have his or her license upon his or her person or displayed~~  
6 ~~at his or her place of employment when engaged in his or her business and~~  
7 ~~shall display the license upon request.~~

8 ~~(2) The name and address of the applicant shall be stated on the~~  
9 ~~license.~~

10 ~~(b) In case of a change of employer, the following procedure shall be~~  
11 ~~followed:~~

12 ~~(1) Within three (3) days following the change of employer, the~~  
13 ~~licensee shall notify in writing the Arkansas Motor Vehicle Commission for~~  
14 ~~its endorsement;~~

15 ~~(2) Within three (3) days following the termination of~~  
16 ~~employment of the licensee, the last employer of the licensee shall make a~~  
17 ~~report to the commission setting forth the reasons that the services of the~~  
18 ~~licensee were terminated and such other information as may be required by the~~  
19 ~~commission;~~

20 ~~(3)(A) Upon receipt by the commission of the licensee's written~~  
21 ~~notification and the last employer's report, the commission shall determine~~  
22 ~~if it has grounds to believe, and does believe, that the licensee is no~~  
23 ~~longer qualified under this subchapter as a recreational vehicle salesperson.~~

24 ~~(B) Under such circumstances, the commission shall~~  
25 ~~immediately notify the licensee and the licensee's new employer in writing~~  
26 ~~that a hearing will be held for the purpose of determining whether his or her~~  
27 ~~license should be revoked or suspended, specifying the grounds for revocation~~  
28 ~~or suspension, as the case may be, and the time and place for the hearing.~~

29 ~~(C) The hearing and any appeal by the licensee with~~  
30 ~~respect to the hearing shall comply with § 23-112-501 et seq.; and~~

31 ~~(4)(A) If after the commission receives the licensee's license~~  
32 ~~and fee and his or her last employer's report the Executive Director of the~~  
33 ~~Arkansas Motor Vehicle Commission cannot for any reason endorse and mail to~~  
34 ~~the licensee his or her license within a period of three (3) days following~~  
35 ~~the receipt by the commission of the licensee's license and fee and his or~~  
36 ~~her last employer's report, then the executive director shall mail to the~~

1 ~~licensee a permit in such form as the commission shall prescribe.~~

2 ~~(B) The permit shall serve in lieu of a license until such~~  
 3 ~~time as the:~~

4 ~~(i) Commission endorses and mails the license to the~~  
 5 ~~licensee; or~~

6 ~~(ii) Licensee's license is revoked or suspended in~~  
 7 ~~accordance with this subchapter.~~

8 ~~(C) If the license is ultimately revoked or suspended,~~  
 9 ~~then immediately upon the revocation or suspension the licensee shall return~~  
 10 ~~the permit to the commission for cancellation.~~

11 ~~(c)(1) The commission shall maintain a permanent file with respect to~~  
 12 ~~each licensed recreational vehicle salesperson.~~

13 ~~(2) Each file shall contain all pertinent information with~~  
 14 ~~respect to the fitness and qualifications of each licensee for use by the~~  
 15 ~~commission in determining whether his or her license should be revoked or~~  
 16 ~~suspended.~~

17 ~~(d)(1) There is no intent under this subchapter to prevent a~~  
 18 ~~salesperson who has not previously been licensed as a salesperson from~~  
 19 ~~selling during the time required to process his or her application.~~

20 ~~(2) The applicant shall be allowed to sell from the date of~~  
 21 ~~employment as long as the applicant and his or her dealer follow the~~  
 22 ~~procedure for license application.~~

23  
 24 SECTION 14. Arkansas Code § 23-112-1009(2), concerning the expiration  
 25 of a license under the Recreational Vehicle Franchise Act, is amended to read  
 26 as follows:

27 (2) Recreational vehicle dealers ~~and salespersons~~ expire  
 28 December 31 following the date of issue.

29  
 30 SECTION 15. Arkansas Code § 23-112-1019(a), concerning the denial,  
 31 revocation, and suspension of a license under the Recreational Vehicle  
 32 Franchise Act, is amended to read as follows:

33 (a) For any of the following reasons, the Arkansas Motor Vehicle  
 34 Commission may deny an application for a license required by this subchapter  
 35 or revoke or suspend a license after it has been granted:

36 (1) ~~(A) Selling or soliciting sales of a recreational vehicle~~

1 ~~without a license issued by the commission.~~

2 ~~(B) The unlawful sale or solicitation of each recreational~~  
 3 ~~vehicle constitutes a separate offense;~~

4 ~~(2)~~ On satisfactory proof of the unfitness of the applicant or  
 5 the licensee, as the case may be, under the standards established and set out  
 6 in this subchapter;

7 ~~(3)~~(2) Fraud practiced or any material misstatement made by an  
 8 applicant in an application for license under this subchapter;

9 ~~(4)~~(3) Failure to comply with any provision of this subchapter  
 10 or with any rule promulgated by the commission under authority vested in it  
 11 by this subchapter;

12 ~~(5)~~(4) Change of condition after a license is granted or failure  
 13 to maintain the qualifications for license;

14 ~~(6)~~(5) Continued violation of any of the provisions of this  
 15 subchapter or of any of the rules of the commission;

16 ~~(7)~~(6) Violation of any law relating to the sale, distribution,  
 17 or financing of recreational vehicles;

18 ~~(8)~~(7) Defrauding a retail buyer to the buyer's damage;

19 ~~(9)~~(8) Failure to perform a written agreement with a retail  
 20 buyer;

21 ~~(10)~~(9) Selling, attempting to sell, or advertising for sale  
 22 vehicles from a location other than that set forth on the license except as  
 23 provided under § 23-112-301;

24 ~~(11)~~(10) Falsifying, altering, or neglecting to endorse or  
 25 deliver a certificate of title to a transferee or lawful owner or failing to  
 26 properly designate a transferee on a document of assignment or certificate of  
 27 title;

28 ~~(12)~~(11) Knowingly purchasing, selling, or otherwise acquiring  
 29 or disposing of a stolen recreational vehicle;

30 ~~(13)~~(12) Submitting a false affidavit setting forth that a title  
 31 has been lost or destroyed;

32 ~~(14)~~(13) Passing title or reassigning title as a dealer without  
 33 a dealer's license or when the dealer's license has been suspended or  
 34 revoked;

35 ~~(15)~~(14) For a person representing that he or she is a dealer ~~or~~  
 36 ~~salesperson~~, either verbally or in an advertisement, when the person is not

1 licensed as a dealer ~~or salesperson~~;

2 ~~(16)~~(15) Assisting a person in the sale of a recreational  
3 vehicle who is not licensed as a dealer by the commission;

4 ~~(17)~~(16) Being a manufacturer who fails to specify the delivery  
5 and preparation obligations of its recreational vehicle dealers, as is  
6 required for the protection of the buying public, before delivery of new  
7 recreational vehicles to retail buyers;

8 ~~(18)~~(17) On satisfactory proof that a manufacturer, distributor,  
9 distributor branch or division, or factory branch or division has unfairly  
10 and without due regard to the equities of the parties or to the detriment of  
11 the public welfare failed to properly fulfill a warranty agreement or to  
12 adequately and fairly compensate any of its recreational vehicle dealers for  
13 labor or parts expenses incurred by the dealer with regard to factory  
14 warranty agreements performed by the dealer;

15 ~~(19)~~(18) For the commission of any act prohibited by this  
16 subchapter or the failure to perform any of the requirements of this  
17 subchapter;

18 ~~(20)~~(19) Using or permitting the use of special license plates  
19 assigned to a licensee for any other purpose than those permitted by law;

20 ~~(21)~~(20) Disconnecting, turning back, or resetting the odometer  
21 of a motor home in violation of state or federal law;

22 ~~(22)~~(21) Accepting an open assignment of title or bill of sale  
23 for a recreational vehicle that does not identify the licensee as the  
24 purchaser or assignee of the recreational vehicle;

25 ~~(23)~~(A)(22)(A) Failing to notify the commission of a change in  
26 ownership, location, or dealer agreement or any other matters the commission  
27 may require by rule.

28 (B) The notification shall be in writing and submitted to  
29 the commission at least fifteen (15) days before the effective date of the  
30 change;

31 ~~(24)~~(23) Failing to endorse and deliver an assignment and  
32 warranty of title to the buyer under § 27-14-902;

33 ~~(25)~~(24) Using or permitting the use of a temporary cardboard  
34 buyer's tag assigned to the dealer for any purpose other than what is  
35 permitted under § 27-14-1705; and

36 ~~(26)~~(25) Failure of a dealer to submit or deliver a certificate

1 of title or manufacturer's certificate of origin to a buyer within a  
2 reasonable period of time.

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
Second Extraordinary Session, 2020

## A Bill

DRAFT JMB/JMB  
HOUSE BILL

By: Representative <NA>

### For An Act To Be Entitled

AN ACT TO REQUIRE EVALUATION AND RESTRUCTURING OF  
LICENSURE FEES RELATED TO THE PRACTICE OF PHYSICAL  
THERAPY; AND FOR OTHER PURPOSES.

### Subtitle

TO REQUIRE EVALUATION AND RESTRUCTURING  
OF LICENSURE FEES RELATED TO THE PRACTICE  
OF PHYSICAL THERAPY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Evaluation and restructuring of licensure fees related to practice of physical therapy.

(a)(1) The Arkansas State Board of Physical Therapy shall conduct an evaluation of licensure fees related to the practice of physical therapy, including the license by reciprocity fee, and restructure the fees.

(2) The evaluation described in subdivision (a)(1) of this section shall include:

(A) A fiscal impact statement;

(B) Information about the use of licensure fees; and

(C) A comparison of licensure fees related to physical therapy in the surrounding states.

(b)(1) The board shall report on the findings of the activities described in subsection (a) of this section to the Legislative Council or an appropriate subcommittee of the Legislative Council.

(2) The report described in subdivision (b)(1) of this section shall include recommendations for legislative changes or rule changes, or

DRAFT

09/16/2020 9:44:46 AM JMB016

1 both.

2 (3)(A) If the report includes recommendations for rule changes,  
3 the board shall promulgate rules necessary to implement the recommendations  
4 under this section.

5 (B) When adopting rules to implement the recommendations  
6 under this section, the final rule shall be filed with the Secretary of State  
7 for adoption under § 25-15-204(f):

8 (i) On or before December 31, 2021; or

9 (ii) If approval under § 10-3-309 has not occurred  
10 by December 31, 2021, as soon as practicable after approval under § 10-3-309.

11 (C) The board shall file the proposed rule changes with  
12 the Legislative Council under § 10-3-309(c) sufficiently in advance of  
13 December 31, 2021, so that the Legislative Council may consider the rule for  
14 approval before December 31, 2021.

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas

92nd General Assembly

Second Extraordinary Session, 2020

## A Bill

DRAFT MLD/MLD

SENATE BILL

By: Senator <NA>

### For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS AGRICULTURAL LIMING  
MATERIALS ACT; TO ELIMINATE THE LIME APPLICATOR  
LICENSE; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE ARKANSAS AGRICULTURAL LIMING  
MATERIALS ACT; AND TO ELIMINATE THE LIME  
APPLICATOR LICENSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 2-19-306 is amended to read as follows:

2-19-306. Registration ~~and vendor's license.~~

(a) ~~Registration.~~

~~(1)~~ Before any liming material is sold or offered for sale or  
distribution in this state, the manufacturer, importer, or other guarantor,  
which is a person or firm ~~who~~ that places or mixes liming materials of more  
than one (1) manufacturer in a stockpile, shall register each ~~such~~ liming  
material with the State Plant Board.

~~(2)(b)~~ The registration shall contain the statement referred to  
in § 2-19-303 or the rules provided for therein and be accompanied by a fee  
of fifteen dollars (\$15.00) for each liming material.

~~(3)(c)~~ Registrations shall expire June 30 of each year.

~~(b) Vendor's License.~~

~~(1) It shall be unlawful for any person or firm to engage in the  
spreading of liming material on properties belonging to others unless  
application for a license shall be in the form prescribed by the board. The~~

DRAFT

09/17/2020 3:41:25 PM MLD006

1 ~~form shall state the name and address of the applicant and total number of~~  
2 ~~spreader trucks or other similar vehicles to be used by the applicant.~~

3 ~~(2) The application shall be accompanied by a fee of fifteen~~  
4 ~~dollars (\$15.00) for the license plus a fee of three dollars (\$3.00) for each~~  
5 ~~spreader truck or similar vehicle.~~

6 ~~(3) Licenses shall expire June 30 of each year.~~

7  
8 SECTION 2. Arkansas Code § 19-6-301(47), concerning the special  
9 revenues of the state deposited into the State Treasury, is amended to read  
10 as follows:

11 (47) Liming material registration fees, ~~and vendor's licenses~~  
12 and inspection fees, as enacted by Acts 1969, No. 353, known as the "Arkansas  
13 Agricultural Liming Materials Act", §§ 2-19-301 – 2-19-308;