

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Miles**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 23, CHAPTER 112, SUBCHAPTER 3 OF
9 THE ARKANSAS CODE OF 1987 TO EXEMPT INCIDENTAL SALES OF
10 CERTAIN MOTOR VEHICLES; AND FOR OTHER PURPOSES."

11

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

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14 SECTION 1. Subsection (b) of Arkansas Code §23-112-301 is hereby
15 amended to read as follows:

16 "(b) (1) No person may engage in the business of buying, selling, or
17 exchanging new motor vehicles unless he holds a valid license issued by the
18 commission for the makes of new motor vehicles being bought, sold, or
19 exchanged, or unless he is a bona fide employee or agent of the licensee.

20 (2) For purposes of this subsection, the term 'engage in the
21 business of buying, selling, or exchanging new motor vehicles' means:

22 (A) Displaying for sale new motor vehicles on a lot or
23 showroom;

24 (B) Advertising for sale new motor vehicles; or

25 (C) Regularly or actively soliciting buyers for new motor
26 vehicles. For purposes of this subsection, the term 'engage in the business
27 of buying, selling, or exchanging new motor vehicles' shall not include the
28 incidental retail sale of a new motor vehicle to an ultimate purchaser by any
29 person whose primary business is used motor vehicle sales.

30 (3) Subdivisions (b) (1) and (2) of this subsection authorize the
31 practice of a licensed new automobile or truck dealer selling, on special
32 order, a new automobile or truck for which he does not hold a manufacturer's
33 franchise.

34 (4) When a new automobile or truck dealer secures a new
35 automobile or truck for a special order and the customer does not consummate

1 the transaction, the automobile or truck dealer may sell the vehicle to
2 another ultimate purchaser, provided, the automobile or truck dealer shall
3 document the name, address, and telephone number of the customer for whom the
4 truck or automobile was ordered in a statement detailing why the transaction
5 was not consummated, such documentation to be held by the dealer subject to
6 inspection by the commission for a period of two (2) years after the date the
7 purchase was refused; and further provided that the automobile or truck shall
8 be deemed a used motor vehicle; and the dealer shall not advertise such
9 automobile or truck as a new automobile or truck.

10 (5) The presence of more than one (1) such vehicle resulting from
11 such nonconsummated special-order transactions in said automobile or truck
12 dealers' inventories at the same time, ordered by the same customer, creates a
13 rebuttable presumption that (b)(1) has been violated on those transactions.

14 (6) Notwithstanding any other provision of this subchapter
15 including but not limited to 23-112-308 or 23-112-309, the sole and exclusive
16 remedy of the commission in the event a new automobile or truck dealer
17 violates or exceeds his authority under section (b)(1), (b)(2), or (b)(3) of
18 this section shall be to seek an injunction prohibiting the challenged
19 transaction pursuant to 23-112-104. However, this section shall not apply to
20 incidental retail sales of new motor vehicles by persons whose primary
21 business is the sale of used motor vehicles."
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23 SECTION 2. All provisions of this act of a general and permanent nature
24 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
25 Revision Commission shall incorporate the same in the Code.
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27 SECTION 3. If any provision of this act or the application thereof to
28 any person or circumstance is held invalid, such invalidity shall not affect
29 other provisions or applications of the act which can be given effect without
30 the invalid provision or application, and to this end the provisions of this
31 act are declared to be severable.
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33 SECTION 4. All laws and parts of laws in conflict with this act are
34 hereby repealed.
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