## Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1	State of Arkansas	As Engrossed: S2/25/03		
2	84th General Assembly	A Bill		
3	Regular Session, 2003		SENATE BILL	361
4				
5	By: Senator Higginbothom			
6				
7				
8		For An Act To Be Entitled		
9	AN ACT TO (	CREATE A USED MOTOR VEHICLE BOARD	<b>,</b> TO	
10	INCREASE TH	HE FEE FOR A LICENSE CERTIFICATE	FOR	
11	USED MOTOR	VEHICLE DEALERS, REQUIRE USED MO	TOR	
12	VEHICLE DEA	ALERS TO SELL AT LEAST TWELVE (12	) USED	
13	VEHICLES DU	URING HIS OR HER LICENSE PERIOD TO	0	
14	MAINTAIN H	IS OR HER DEALER LICENSE; AND FOR	OTHER	
15	PURPOSES.			
16				
17		Subtitle		
18	AN ACT	TO CREATE A USED MOTOR VEHICLE		
19	BOARD.			
20				
21				
22	BE IT ENACTED BY THE GENE	ERAL ASSEMBLY OF THE STATE OF ARKA	ANSAS:	
23				
24	SECTION 1. Creation	on.		
25	There is created th	ne Arkansas Board of Used Motor Ve	ehicle Dealers.	
26				
27	SECTION 2. Members	ship.		
28	(a) The Arkansas B	Board of Used Motor Vehicle Dealer	rs shall be compos	sed
29	of five (5) members to be	e appointed by the Governor as fol	llows:	
30	<u>(1)</u> One (1)	member shall be an officer of the	e Arkansas	
31	Independent Dealers Assoc	ciation;		
32	(2) Two (2)	members shall be licensed used mo	otor vehicle	
33	dealers;			
34	<u>(3)</u> One (1)	member shall be an active commiss	sioned Arkansas	
35	State Police Officer; and	<u>1</u>		
36	(4) One (1)	representative of the Office of M	Motor Vehicles.	

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1	(b)(1) The initial board members under subsection (a) of this section
2	shall determine their terms of office by drawing lots to result in one (1)
3	member serving a three-year term, two (2) members serving four-year terms,
4	and two (2) members serving five-year terms.
5	(2) Successor appointed members shall serve five-year terms.
6	(c)(1) Each board member, unless removed by the Governor, shall hold
7	office until his or her successor is appointed and qualified.
8	(2) Any member who fails to attend two (2) or more consecutive
9	meetings of the board without reasonable cause may be removed by the
10	Governor.
11	(d) The Governor shall fill all vacancies occurring on the board with
12	appointments for the duration of the unexpired term.
13	
14	SECTION 3. Administrator.
15	(a) The Director of the Department of Arkansas State Police, or his or
16	her representative, shall serve as the administrator of the board.
17	(b) The administrator shall:
18	(1) Not be a member of the board;
19	(2) Perform the duties prescribed by the board; and
20	(3) Have no financial or business interests, contingent or
21	otherwise, in any used motor vehicle dealership.
22	(c) All legal documents required by law to be served upon or filed
23	with the board, shall be served or filed with the administrator at the
24	designated office of the board.
25	(d) All official records of the board, or affidavits by the
26	administrator as to the content of the records, shall be prima facie evidence
27	of all matters required to be kept by the board.
28	
29	Section 4. Election and proceedings.
30	(a) The Arkansas Board of Used Motor Vehicle Dealers shall elect from
31	among its members a chair, vice-chair, and secretary to serve one-year terms
32	beginning on January 1 of each year.
33	(b) The chair, or in his or her absence the vice-chair, shall preside
34	at all meetings of the board and perform the other duties prescribed in this
35	act.
36	(c) The board shall meet at regular intervals to be decided by a

1

majority vote of the board.

provided under the Arkansas Administrative Procedure Act; and  (2) To investigate alleged violations of §§ 23-112-601 through  23-112-611, or any regulations, and administer fines based on the findings of the board.  (b)(1) In the conduct of any investigation conducted under the provisions of this act, the board may issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents.  (2) The officer conducting the hearing may administer oaths and may require testimony or evidence to be given under oath.  (c) All fines collected under the provisions of this section shall be remitted to the Department of Arkansas State Police and shall be deposited in the State Treasury as special revenues to the credit of the Department of Arkansas State Police Fund.  SECTION 6. Arkansas Code § 23-112-602(9)(A), concerning the definition of a used motor vehicle dealer, is amended to read as follows:  (9)(A)(i) "Used motor vehicle dealer", hereinafter referred to as "dealer", means any person, wholesaler, or auto auction who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents, or leases with the option to purchase or own, or attempts to negotiate a sale or exchange of an interest in any used motor vehicle, or who is wholly or in part in the business of buying, selling, trading, or exchanging used motor vehicles, whether or not such motor vehicles are owned by such person.  (ii) The sale or attempted sale of three (3) or more	2	(d) A majority of the board constitutes a quorum to transact business.
SECTION 5. Powers and duties.  (a) The Arkansas Board of used Motor Vehicle dealers shall have the following powers and duties:  (1) To promulgate reasonable rules and regulations in the manner provided under the Arkansas Administrative Procedure Act; and  (2) To investigate alleged violations of §§ 23-112-601 through  23-112-611, or any regulations, and administer fines based on the findings of the board.  (b)(1) In the conduct of any investigation conducted under the provisions of this act, the board may issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents.  (2) The officer conducting the hearing may administer oaths and may require testimony or evidence to be given under oath.  (c) All fines collected under the provisions of this section shall be remitted to the Department of Arkansas State Police and shall be deposited in the State Treasury as special revenues to the credit of the Department of Arkansas State Police Fund.  SECTION 6. Arkansas Code § 23-112-602(9)(A), concerning the definition of a used motor vehicle dealer, is amended to read as follows:  (9)(A)(i) "Used motor vehicle dealer", hereinafter referred to as "dealer", means any person, wholesaler, or auto auction who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents, or leases with the option to purchase or own, or attempts to negotiate a sale or exchange of an interest in any used motor vehicle, or who is wholly or in part in the business of buying, selling, trading, or exchanging used motor vehicles, whether or not such motor vehicles are owned by such person.  (ii) The sale or attempted sale of three (3) or more	3	(e) The board shall be subject to the Arkansas Administrative
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(9)(A)(i) "Used motor vehicle dealer", hereinafter referred to as "dealer", means any person, wholesaler, or auto auction who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents, or leases with the option to purchase or own, or attempts to negotiate a sale or exchange of an interest in any used motor vehicle, or who is wholly or in part in the business of buying, selling, trading, or exchanging used motor vehicles, whether or not such motor vehicles are owned by such person.  (ii) The sale or attempted sale of three (3) or more	25	SECTION 6. Arkansas Code § 23-112-602(9)(A), concerning the definition
as "dealer", means any person, wholesaler, or auto auction who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents, or leases with the option to purchase or own, or attempts to negotiate a sale or exchange of an interest in any used motor vehicle, or who is wholly or in part in the business of buying, selling, trading, or exchanging used motor vehicles, whether or not such motor vehicles are owned by such person.  (ii) The sale or attempted sale of three (3) or more	26	of a used motor vehicle dealer, is amended to read as follows:
commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents, or leases with the option to purchase or own, or attempts to negotiate a sale or exchange of an interest in any used motor vehicle, or who is wholly or in part in the business of buying, selling, trading, or exchanging used motor vehicles, whether or not such motor vehicles are owned by such person.  (ii) The sale or attempted sale of three (3) or more	27	(9)(A)(i) "Used motor vehicle dealer", hereinafter referred to
value, sells, brokers, exchanges, rents, or leases with the option to purchase or own, or attempts to negotiate a sale or exchange of an interest in any used motor vehicle, or who is wholly or in part in the business of buying, selling, trading, or exchanging used motor vehicles, whether or not such motor vehicles are owned by such person.  (ii) The sale or attempted sale of three (3) or more	28	as "dealer", means any person, wholesaler, or auto auction who, for a
purchase or own, or attempts to negotiate a sale or exchange of an interest in any used motor vehicle, or who is wholly or in part in the business of buying, selling, trading, or exchanging used motor vehicles, whether or not such motor vehicles are owned by such person. (ii) The sale or attempted sale of three (3) or more	29	commission or with intent to make a profit or gain of money or other thing of
in any used motor vehicle, or who is wholly or in part in the business of buying, selling, trading, or exchanging used motor vehicles, whether or not such motor vehicles are owned by such person.  (ii) The sale or attempted sale of three (3) or more	30	value, sells, brokers, exchanges, rents, or leases with the option to
buying, selling, trading, or exchanging used motor vehicles, whether or not such motor vehicles are owned by such person.  (ii) The sale or attempted sale of three (3) or more	31	purchase or own, or attempts to negotiate a sale or exchange of an interest
such motor vehicles are owned by such person.  (ii) The sale or attempted sale of three (3) or more	32	in any used motor vehicle, or who is wholly or in part in the business of
(ii) The sale or attempted sale of three (3) or more	33	buying, selling, trading, or exchanging used motor vehicles, whether or not
•	34	such motor vehicles are owned by such person.
36 used motor vehicles in any one (1) calendar year shall be prima facie	35	(ii) The sale or attempted sale of three (3) or more
dised motor venicles in any one (1) calendar year sharr be prima racte	36	used motor vehicles in any one (1) calendar year shall be prima facie

- l evidence and shall constitute a rebuttable presumption that a person is
- 2 engaged in the business of selling used motor vehicles.
- 3 <u>(iii)</u> Any licensed used car dealer must sell at
- 4 least twelve (12) used motor vehicles per calendar year to maintain the
- 5 dealer's used motor vehicle license. This requirement shall not apply to
- 6 dealers whose primary business is salvage or the rebuilding of motor
- 7 vehicles.

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- 9 SECTION 7. Arkansas Code § 23-112-603 is amended by adding an
- 10 additional subsection to read as follows:
- 11 (d)(1) Each dealer licensed under this subchapter shall maintain a
- 12 <u>licensed location</u>.
- 13 (2)(A) When a dealer changes or moves his or her license
- 14 location, the dealer is required to notify the Department of Arkansas State
- 15 Police in writing of the dealership name, the previous location and the new
- 16 location.
- 17 <u>(B) The notification shall be made within fifteen (15)</u>
- 18 calendar days of the relocation of the business.
- 19 (3) If it is determined that the business location has moved and
- 20 notification to the department has not been properly made, a penalty equal to
- 21 the amount of the license fee shall be levied by the department.
- 22 (4) The penalty shall be deposited in the State Treasury and
- 23 credited to the Department of Arkansas State Police Fund to be used for the
- 24 purchase and maintenance of state police vehicles.

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- 26 SECTION 8. Arkansas Code § 23-112-608(a), concerning the fees for a
- 27 license certificate for used motor vehicle dealers, is amended to read as
- 28 follows:
- 29 23-112-608. License certificate fees.
- 30 Statute text
- 31 (a)(1) The fee for a license certificate shall be one hundred dollars
- 32 (\$100) two hundred fifty dollars (\$250.00) per year for each used motor
- 33 vehicle dealer licensed.
- 34 (2)(A) Such fee shall be for the licensing period beginning on
- 35 January 1 of each year and ending on December 31 of each year and shall be
- 36 renewable during the month of January following its expiration.

T	(b) After January 1 of each renewal year a late fee of
2	twenty-five dollars (\$25.00) per month is required to be paid before the
3	application will be accepted.
4	(3) A dealer having more than one (1) location will receive an
5	additional certificate for each second and subsequent location for twenty-
6	five dollars (\$25.00) one hundred twenty-five (\$125.00) each.
7	(b) Only used motor vehicle dealers licensed under this section shall
8	qualify for used motor vehicle dealer license plates from the Arkansas
9	Department of Finance and Administration.
10	(c) $\underline{(1)}$ All fees for the issuance of a license certificate under the
11	provisions of this section shall be remitted to the Department of Arkansas
12	State Police and shall be deposited in the State Treasury as special revenues
13	to the credit of the Department of Arkansas State Police Fund.
14	(2) This special revenue shall be dedicated to the operation of
15	the Used Motor Vehicle Licensing Section of the Arkanas State Police.
16	(3) Excess revenue shall be dedicated to purchase, maintain, and
17	equip the Arkansas State Police fleet.
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19	SECTION 9. This act shall become effective on September 1, 2003.
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21	/s/ Higginbothom
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