

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
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S2/25/03
A Bill

SENATE BILL 361

5 By: Senator Higginbothom
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO CREATE A USED MOTOR VEHICLE BOARD, TO
10 INCREASE THE FEE FOR A LICENSE CERTIFICATE FOR
11 USED MOTOR VEHICLE DEALERS, REQUIRE USED MOTOR
12 VEHICLE DEALERS TO SELL AT LEAST TWELVE (12) USED
13 VEHICLES DURING HIS OR HER LICENSE PERIOD TO
14 MAINTAIN HIS 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 GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Creation.

25 There is created the Arkansas Board of Used Motor Vehicle Dealers.
26

27 SECTION 2. Membership.

28 (a) The Arkansas Board of Used Motor Vehicle Dealers shall be composed
29 of five (5) members to be appointed by the Governor as follows:

30 (1) One (1) member shall be an officer of the Arkansas
31 Independent Dealers Association;

32 (2) Two (2) members shall be licensed used motor vehicle
33 dealers;

34 (3) One (1) member shall be an active commissioned Arkansas
35 State Police Officer; and

36 (4) One (1) representative of the Office of Motor Vehicles.



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.

2 (d) A majority of the board constitutes a quorum to transact business.

3 (e) The board shall be subject to the Arkansas Administrative
4 Procedure Act.

5
6 SECTION 5. Powers and duties.

7 (a) The Arkansas Board of used Motor Vehicle dealers shall have the
8 following powers and duties:

9 (1) To promulgate reasonable rules and regulations in the manner
10 provided under the Arkansas Administrative Procedure Act; and

11 (2) To investigate alleged violations of §§ 23-112-601 through
12 23-112-611, or any regulations, and administer fines based on the findings of
13 the board.

14 (b)(1) In the conduct of any investigation conducted under the
15 provisions of this act, the board may issue subpoenas to compel the
16 attendance of witnesses and the production of pertinent books, accounts,
17 records, and documents.

18 (2) The officer conducting the hearing may administer oaths and
19 may require testimony or evidence to be given under oath.

20 (c) All fines collected under the provisions of this section shall be
21 remitted to the Department of Arkansas State Police and shall be deposited in
22 the State Treasury as special revenues to the credit of the Department of
23 Arkansas State Police Fund.

24
25 SECTION 6. Arkansas Code § 23-112-602(9)(A), concerning the definition
26 of a used motor vehicle dealer, is amended to read as follows:

27 (9)(A)(i) "Used motor vehicle dealer", hereinafter referred to
28 as "dealer", means any person, wholesaler, or auto auction who, for a
29 commission or with intent to make a profit or gain of money or other thing of
30 value, sells, brokers, exchanges, rents, or leases with the option to
31 purchase or own, or attempts to negotiate a sale or exchange of an interest
32 in any used motor vehicle, or who is wholly or in part in the business of
33 buying, selling, trading, or exchanging used motor vehicles, whether or not
34 such motor vehicles are owned by such person.

35 (ii) The sale or attempted sale of three (3) or more
36 used motor vehicles in any one (1) calendar year shall be prima facie

1 evidence and shall constitute a rebuttable presumption that a person is
2 engaged in the business of selling used motor vehicles.

3 (iii) 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.

8
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 licensed location.

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 (B) The notification shall be made within fifteen (15)
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.

25
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.

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