

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.
Act 1416 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 2796

5 By: Representatives L. Evans, Bolin, Roebuck
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7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW PERTAINING TO USED MOTOR
10 VEHICLE DEALERS; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO AMEND THE LAW PERTAINING TO USED
13 MOTOR VEHICLE DEALERS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 23-112-602(9), concerning the definition of
20 "used motor vehicle dealer", is amended to read as follows:

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

29 (ii) The sale or attempted sale of ~~three (3)~~ five
30 (5) or more used motor vehicles in any one (1) calendar year shall be prima
31 facie evidence and shall constitute a rebuttable presumption that a person is
32 engaged in the business of selling used motor vehicles.
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34 SECTION 2. Arkansas Code § 23-112-602, regarding the definitions
35 pertaining to used motor vehicle dealers and buyers, is amended to add an



1 additional subdivision to read as follows:

2 (12) "Designee" means a person or entity that:

3 (A) Agrees to perform inspections of used motor vehicle
4 dealers under this subchapter on behalf of the Department of Arkansas State
5 Police; and

6 (B) The Department of Arkansas State Police determines is
7 appropriately suited for serving as a designee under this subchapter.

8
9 SECTION 3. Arkansas Code § 23-112-603 is amended to add an additional
10 subsection to read as follows:

11 (d)(1) A used motor vehicle dealer licensed under this subchapter
12 shall maintain a licensed location.

13 (2) When a used motor vehicle dealer changes or moves his or her
14 licensed location, within fifteen (15) calendar days of the relocation, the
15 used motor vehicle dealer shall notify the Department of Arkansas State
16 Police in writing of the dealership name, the previous location, and the new
17 location.

18 (3)(A) If the Department of Arkansas State Police determines
19 that the used motor vehicle dealer's business location has moved and
20 notification to the department has not been properly made, the department
21 shall levy a fine equal to the amount of the license fee.

22 (B) The fine collected pursuant to subdivision (d)(3)(A)
23 shall be remitted to the Department of Arkansas State Police and shall be
24 deposited into the State Treasury as special revenue to the credit of the
25 Department of Arkansas State Police.

26
27 SECTION 4. Arkansas Code § 23-112-607 is amended to read as follows:
28 23-112-607. Dealer license.

29 (a)(1) Persons wishing to obtain a used motor vehicle dealer's license
30 shall submit a fully executed application on such used motor vehicle dealer
31 application forms as may be prescribed by the Department of Arkansas State
32 Police.

33 (2) The application shall be verified by the oath or affirmation
34 of the applicant.

35 (b) An applicant for a used motor vehicle dealer license or a licensee
36 seeking to renew a used motor vehicle dealer license shall establish that he

1 or she has sold at least five (5) used motor vehicles during the previous
2 calendar year.

3 ~~(b)~~(c) The department shall require in relation to the application the
4 following information and verification prior to issuing a license
5 certificate:

6 (1) A photograph of the business location;

7 (2) A corporate surety bond in the sum of at least twenty-five
8 thousand dollars (\$25,000);

9 (3) Proof of liability insurance coverage on all vehicles to be
10 offered for sale in an amount equal to or greater than the amount required by
11 the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.;

12 (4) A list of the persons or entities having any ownership
13 interest in the used vehicle dealership;

14 (5) A list of salespersons to be employed;

15 (6) That the applicant has a bona fide established place of
16 business used primarily for the sale of used motor vehicles;

17 (7) That the applicant has a telephone number listed in the name
18 of the business;

19 (8) That the applicant has a sign identifying the establishment
20 as a used motor vehicle dealership legible from the street, road, or highway,
21 and a picture thereof;

22 (9) That the applicant has a filing cabinet or other repository
23 adequate to secure the business records of the establishment under lock and
24 key or combination;

25 (10) Whether the applicant has ever been issued a motor vehicle
26 dealer's license, and if the applicant has ever had a motor vehicle dealer's
27 license suspended or revoked;

28 (11)(A) ~~An~~ Except as provided in subdivision (c)(11)(B) of this
29 section, an affidavit from a Department of Arkansas State Police officer or a
30 designee of the department stating that the officer or a designee of the
31 department has inspected the facility within thirty (30) days before issuance
32 or renewal of a license and found it to be in compliance with the
33 requirements for application.

34 (B) If a licensee has been continuously licensed at the
35 same facility for ten (10) years or more, then the licensee shall only be
36 required to comply with subdivision (c)(11)(A) one (1) time every other year;

1 and

2 (12) The name, address, and telephone number of the person
 3 designated to receive legal process in the event of the commencement of any
 4 legal action in any court against the applicant.

5 ~~(e)~~(d)(1)(A) Each applicant shall obtain a corporate surety bond in
 6 the penal sum of twenty-five thousand dollars (\$25,000) on a bond form
 7 approved by the state.

8 (B) However, an applicant for a license at multiple
 9 locations may provide a corporate surety bond in the penal sum of one hundred
 10 thousand dollars (\$100,000) covering all licensed locations in lieu of
 11 separate bonds for each individual location.

12 (2) The bond shall be an indemnity for any loss and reasonable
 13 attorney's fees sustained by a retail buyer by reason of the acts of the
 14 person bonded when such an act constitutes a violation of this law.

15 (3) However, the surety shall in no event be liable for more
 16 than twenty-five thousand dollars (\$25,000).

17 (4) The bond shall be executed in the name of the State of
 18 Arkansas or any aggrieved party.

19 (5) The proceeds of the bonds shall be paid either to the State
 20 of Arkansas or to the retail buyer upon a judgment from an Arkansas court of
 21 competent jurisdiction against the principal and in favor of the aggrieved
 22 party or the State of Arkansas.

23 (6) However, the surety shall in no event be required to pay any
 24 judgment obtained by fraud or collusion, as between the dealer and the retail
 25 buyer, or which was rendered against a person bonded for an act that does not
 26 constitute a violation of this subchapter. These defenses may be raised at
 27 any time, subject to the applicable statute of limitations.

28
 29 SECTION 5. Arkansas Code § 23-112-608(a), concerning license
 30 certificate fees, is amended to read as follows:

31 (a)(1) The fee for a license certificate shall be ~~one hundred dollars~~
 32 ~~(\$100)~~ two hundred fifty dollars (\$250) per year for each used motor vehicle
 33 dealer licensed.

34 (2)(A) The 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, unless the

1 Department of Arkansas State Police provides by rule a staggered method of
2 annual renewal.

3 (B)(i) If a license certificate has been expired for at
4 least thirty-one (31) days but less than six (6) months, then the used motor
5 vehicle dealer shall remit a late fee of thirty-five dollars (\$35.00) before
6 the used motor vehicle dealer's application shall be accepted.

7 (ii)(a) A license that is not renewed within six (6)
8 months of its expiration date shall be deemed permanently expired.

9 (b) If a used motor vehicle dealer license has
10 permanently expired, then the used motor vehicle dealer may reapply for
11 licensure provided that the used motor vehicle dealer completes an
12 application for licensure and remits all fees pursuant to this section.

13 (3) A dealer having more than one (1) location will receive an
14 additional certificate for each second and subsequent location for ~~twenty-~~
15 ~~five dollars (\$25.00)~~ one hundred twenty-five dollars (\$125) each.

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18 APPROVED: 3/30/2005
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