

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Wyrick**

A Bill

ACT 383 OF 1993
HOUSE BILL 1344

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS PROVISIONS OF THE ARKANSAS MOTOR
9 VEHICLE COMMISSION ACT; TO AMEND ARKANSAS CODE 23-112-201
10 TO ALTER THE MEMBERSHIP OF THE MOTOR VEHICLE COMMISSION;
11 TO AMEND ARKANSAS CODE 23-112-202 AND 23-112-506 TO ALTER
12 PROCEDURES OF THE ARKANSAS MOTOR VEHICLE COMMISSION; TO
13 AMEND 23-112-308 TO ADD GROUNDS FOR DENYING, REVOKING OR
14 SUSPENDING THE LICENSE OF A PERSON ENGAGED IN THE MOTOR
15 VEHICLE BUSINESS BASED ON HIS FAILURE TO COMPLY WITH
16 WARRANTY REIMBURSEMENT RESPONSIBILITIES IN REGARD TO
17 MOTORCYCLES AND ALL-TERRAIN VEHICLES; TO AMEND ARKANSAS
18 CODE 23-112-103 TO FURTHER DEFINE BROKER; AND FOR OTHER
19 PURPOSES."

Subtitle

21 "AN ACT TO AMEND VARIOUS PROVISIONS OF THE ARKANSAS MOTOR
22 VEHICLE COMMISSION ACT."
23

24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26
27 SECTION 1. Arkansas Code §23-112-201 is amended to read as follows:

28 "23-112-201. Arkansas Motor Vehicle Commission - Creation - Members -
29 Officers.

30 (a) There is created the Arkansas Motor Vehicle Commission, hereinafter
31 referred to as the commission, to be composed of nine (9) members to be
32 appointed by the Governor for terms of seven (7) years, subject to
33 confirmation by the Arkansas Senate.

34 (b)(1) One (1) commissioner shall be appointed from each of the four
35 (4) congressional districts of the state as constituted July 1, 1975, and five
36 (5) members of the commission, including the consumer and elderly

1 representatives, shall be appointed from the state at large.

2 (2) (A) Four (4) members of the commission shall be licensees, or
3 shall be qualified as licensees under the provisions of this chapter at the
4 time of their appointment.

5 (B) Five (5) members of the commission shall be appointed
6 from the public at large, including the consumer representatives and the
7 elderly representative.

8 (C) No more than four (4) members of the commission shall
9 at any time be licensees under this chapter or have any financial interest in,
10 or be an officer or an employee of, a licensee of this chapter, and at least
11 one (1) of them shall be licensed as a dealer of franchise motorcycles.

12 (3) The consumer representatives and the representative of the
13 elderly shall not be actively engaged in or retired from the businesses
14 regulated by this chapter. The two (2) positions may not be held by the same
15 person. Both shall be full voting members. The elderly representative shall be
16 sixty (60) years of age or older.

17 (4) Each of the members appointed shall be a citizen of the
18 United States, a resident of the State of Arkansas, and a qualified elector of
19 the jurisdiction from which appointed, and each shall be of good moral
20 character.

21 (c) In the event a vacancy on the commission occurs due to death,
22 resignation, or other reason, the vacancy shall be filled for the unexpired
23 portion of the term by appointment of the Governor, subject to confirmation by
24 the Senate, of a person meeting the same qualifications required for the
25 initial appointment.

26 (d) Each commission member shall serve until his successor is appointed
27 and qualified.

28 (e) The commission shall select by majority vote of its members one (1)
29 of its members as a chairman, one (1) as a vice-chairman, and one (1) as a
30 secretary.

31 (f) The chairman and members of the commission shall receive fifty
32 dollars (\$50.00) per day for each and every day actually and necessarily spent
33 in attending the meetings of the commission and shall be reimbursed for their
34 reasonable subsistence and traveling expenses necessarily incurred in the
35 performance of their duties hereunder. The chairman shall require itemized

1 statements of all reimbursable expenses and shall audit the statements or
2 cause them to be audited before approving them for payment."

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4 SECTION 2. Arkansas Code 23-112-202(d) is amended to read as follows:

5 "(d) A majority of the commission shall constitute a quorum for the
6 transaction of any business."

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8 SECTION 3. Arkansas Code 23-112-506 is amended to read a follows:

9 "23-112-506 Appeals. Appeals shall be governed by the terms of the
10 Arkansas Administrative Procedures Act, § 25-15-201, et seq."

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12 SECTION 4. Arkansas Code 23-112-308(a)(10) is amended to read as
13 follows:

14 "(10) On satisfactory proof that any manufacturer, distributor,
15 distributor branch or division, or factory branch or division has unfairly and
16 without due regard to the equities of the parties or to the detriment of the
17 public welfare failed to properly fulfill any warranty agreement or to
18 adequately and fairly compensate any of its motor vehicle dealers for labor,
19 parts, compensation for parts for two, three and four wheeled motorcycles and
20 motor driven all-terrain vehicles must be at the manufacturer's suggested
21 retail price, or incidental expenses incurred by the dealer with regard to
22 factory warranty agreements performed by the dealer;"

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24 SECTION 5. Arkansas Code 23-112-103(17) is amended to read as follows:

25 "(17) Broker means a person who for any valuable consideration,
26 whether received directly or indirectly, arranges or offers to arrange a
27 transaction involving the sale, for purposes other than resale, of a new motor
28 vehicle, and who is not:

29 (A) A dealer or bona fide employee of a new motor vehicle dealer
30 when acting on behalf of a new motor vehicle dealer;

31 (B) A representative or bona fide employee of a manufacturer,
32 factory branch, or factory representative when acting on behalf of a
33 manufacturer, factory branch or factory representative;

34 (C) A representative or bona fide employee of a distributor or
35 distributor branch when acting on behalf of a distributor or distributor

1 branch; or

2 (D) At any point in the transaction, the bona fide owner of the
3 vehicle involved in the transaction;"

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5 SECTION 6. All provisions of this act of a general and permanent nature
6 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
7 Revision Commission shall incorporate the same in the Code.

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9 SECTION 7. If any provision of this act or the application thereof to
10 any person or circumstance is held invalid, such invalidity shall not affect
11 other provisions or applications of the act which can be given effect without
12 the invalid provision or application, and to this end the provisions of this
13 act are declared to be severable.

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15 SECTION 8. All laws and parts of laws in conflict with this act are
16 hereby repealed.

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18 SECTION 9. *It is hereby found and determined by the General Assembly*
19 *that due to recent resignations of members, the Motor Vehicle Commission is*
20 *unable to perform the duties assigned to it by law; that the consumer has not*
21 *been adequately represented on the Commission; and that the changes in the*
22 *membership and procedures of the Commission provided for in this Act are*
23 *necessary to prevent injury to the public. Therefore, an emergency is hereby*
24 *declared to exist and this Act being necessary for the preservation of the*
25 *public peace, health and safety shall be in full force and effect from and*
26 *after its passage and approval.*

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/s/Phil Wyrick

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APPROVED: 3/8/93

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As Engrossed: 2/10/93 2/15/93 2/19/93

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