

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**

A Bill

ACT 357 OF 1995
HOUSE BILL 1308

4 **By: Representative Wooldridge, Angel, Molinaro, and Kidd**

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For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF ARK. CODE ANN. § 23-
9 112-601 ET SEQ. DEALING WITH USED MOTOR VEHICLE BUYER
10 PROTECTION; AND FOR OTHER PURPOSES."

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Subtitle

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13 "TO AMEND VARIOUS SECTIONS OF A.C.A. §
14 23-112-601 ET SEQ. DEALING WITH USED
15 MOTOR VEHICLE BUYER PROTECTION."

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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 Annotated § 23-112-602(9) is hereby amended to
20 read as follows:

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

29 (ii) The sale or attempted sale of three (3) or more used
30 motor vehicles in any one (1) calendar year shall be prima facie evidence and
31 shall constitute a rebuttable presumption that a person is engaged in the
32 business of selling used motor vehicles.

33 (B) Used motor vehicle dealer shall not include:

34 (i) A receiver, trustee, administrator, executor, guardian,
35 or other person appointed by or acting pursuant to a judgment or order of any
36 court;

1 (ii) A public officer, while performing his official
2 duties;

3 (iii) A mortgagee or secured party as to sales of motor
4 vehicles constituting collateral on a mortgage or security agreement, if such
5 mortgagee or secured leasing party shall not realize for their own account
6 from such sales any moneys in excess of the outstanding balance secured by
7 such mortgage or security agreement after consideration of the costs of
8 collection;

9 (iv) A lien holder, artisan, mechanic, or garage selling
10 repaired items pursuant to a lien granted by Arkansas law;

11 (v) A person selling a motor vehicle titled in his own name
12 and used exclusively as a personal vehicle or a motor vehicle titled in a
13 business name and used exclusively as a business vehicle, or a person engaged
14 in leasing or renting vehicles; or

15 (vi) A new motor vehicle dealer selling a used motor
16 vehicle in conjunction with his new motor vehicle dealer operations who is
17 licensed under the Motor Vehicle Commission Act, § 23-112-101 et seq.;"
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19 SECTION 2. Arkansas Code Annotated § 23-112-605 is hereby amended to
20 read as follows:

21 "23-112-605. Violations. It shall be a violation of this subchapter to
22 knowingly or intentionally:

23 (1) (A) Sell a vehicle without a dealer license.

24 (B) The sale of each vehicle shall constitute a separate offense;

25 (2) Commit a fraudulent act in selling, purchasing, or otherwise
26 dealing in motor vehicles;

27 (3) Fail to maintain the conditions and requirements necessary to
28 qualify for the issuance of a license;

29 (4) Sell, attempt to sell, or advertise for sale vehicles from a
30 location other than that set forth on the dealer license, except:

31 (A) As a participating dealer in a state trade association
32 promotion or exhibit;

33 (B) With a special sale permit; or

34 (C) At an auto auction;

35 (5) Falsify, alter, or neglect to endorse or deliver a certificate of

1 title to a transferee or lawful owner, or fail to properly designate a
2 transferee on a document of assignment or certificate of title;

3 (6) Knowingly purchase, sell, or otherwise acquire or dispose of a
4 stolen motor vehicle;

5 (7) Submit a false affidavit setting forth that a title has been lost
6 or destroyed;

7 (8) Pass title or reassign title as a dealer without a dealer's license
8 or when his dealer's license has been suspended;

9 (9) For a person to represent that he is a dealer or a salesman, either
10 verbally or in any advertisement, when said person is not licensed as such;

11 (10) Violate any provision or requirement in this subchapter; or

12 (11) Knowingly assist an unlicensed dealer in the sale of a motor
13 vehicle."

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15 SECTION 3. Arkansas Code Annotated § 23-112-610 is hereby amended to
16 read as follows:

17 "23-112-610. Display of dealer license.

18 (a) Each dealer licensed hereunder shall maintain for display, in a
19 conspicuous place at the dealer's business location, the license certificate
20 issued by the Department of Arkansas State Police.

21 (b) Each dealer shall also have his used motor vehicle dealer license
22 name conspicuously displayed on all signage. All printed advertisements shall
23 contain the dealer's name, or the words _AR DLR_ with the Arkansas State
24 Police Dealer License Number assigned to the dealer."

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26 SECTION 4. Arkansas Code Annotated § 23-112-611 is hereby amended to
27 read as follows:

28 "23-112-611. Records to be maintained.

29 (a) Every person required to have a license shall maintain, for three
30 (3) years from the date of purchase, records of each vehicle transaction to
31 which said person was a party.

32 (b) *Dealers shall maintain copies of all documents executed in*
33 *conjunction with any transaction, which may include bills of sale, titles,*
34 *odometer statements, invoices, affidavits of alteration, and reassignments,*
35 *and shall be open to inspection to any Arkansas State Police officer acting in*

1 an official capacity during reasonable business hours."

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3 SECTION 5. Arkansas Code Annotated § 27-14-601(a)(6)(D) is hereby
4 amended to read as follows:

5 "(D) Any dealer who pleads guilty, nolo contendere, or is found guilty
6 of the misuse of a dealer license plate or of allowing anyone else to misuse a
7 dealer license plate shall be fined not more than two hundred fifty dollars
8 (\$250) for the first offense, not more than five hundred dollars (\$500) for
9 the second offense, and not more than one thousand dollars (\$1000) for the
10 third and subsequent offenses."

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

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16 SECTION 7. If any provision of this act or the application thereof to
17 any person or circumstance is held invalid, such invalidity shall not affect
18 other provisions or applications of the act which can be given effect without
19 the invalid provision or application, and to this end the provisions of this
20 act are declared to be severable.

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

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/s/Wooldridge, et al

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APPROVED: 2-20-95

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