

**DEPARTMENT DIVISION OF ARKANSAS STATE POLICE
USED MOTOR VEHICLE DEALER LICENSING RULES**

Rule 1. "Definitions" As used in these rules and procedures, unless the context otherwise requires, the following terms are defined as:

1A. "Department Division" means the Department Division of Arkansas State Police ("ASP").

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1E. "Applicant" means any person who has submitted to the Department Division a properly completed application for a certificate of license to conduct business under the provisions of the Act.

1F. "License" means a certificate issued to a person, by the Department Division, authorizing that person to conduct business under the provisions of this "Act" and these rules.

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1H. "Documentation" means such information as may be required by the Department Division, utilized to determine an applicant's or licensee's qualifications to hold a certificate of license.

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Rule 2. "Licensee" Responsibilities

2.1. Any person who fails to renew the certificate of license as outlined in this "Act" and within the guidelines of the provisions of the Department Division of Finance, division of Motor Vehicles shall be required to submit, with the application for renewal, a sworn affidavit attesting they have not violated any provisions of this "Act" or these rules.

2.2. A licensee, shall within seven (7) calendar days, notify the Department Division in writing of any change in the following:

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2.6. The Director shall issue an order of summary suspension to the holder of a certificate of license 30 days after a judgment is entered against the licensee, and the suspension shall be in effect until proof that the judgment has been satisfied is submitted to the Department Division.

2.7. The Bond and Insurance requirement(s), as outlined under the provisions of the "Act" shall be in force at all times while holding a certificate of license. Failure of a licensee to comply with this rule shall result in the certificate of license being summarily suspended by the Director and such suspension shall be in effect until said Bond and Insurance is submitted to the Department Division and shown to be in full force.

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2.9. Any person to whom a certificate of license has been granted and receives an order of suspension or revocation shall immediately, upon receipt of such notice, return all certificates of license to the DepartmentDivision.

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2.13. Any person to who a certificate of license has been granted ceases to conduct business at the location on file with the departmentDivision, shall notify the director, in writing, of such cessation within ten (10) calendar days. The license shall automatically be suspended and shall not be reinstated until the provisions for licensure outlined in the "Act" or these rules are met.

Rule 3. Hearing Provisions

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3.3. The Director shall assign a file number to each order and notice of hearing and hereafter all documents pertaining to the matter shall bear that number. All pleadings and motions to be filed relative to the hearing shall be signed, verified and dated, and filed with the DepartmentDivision.

3.4. During the course of a hearing, the DepartmentDivision shall not be bound by the technical rules of evidence and may admit and give probative value to any evidence which possesses such probative value as would entitle it to be accepted by reasonable and prudent men in the conduct of their affairs, provided, however, the hearing officer shall give effect to the rules of privilege recognized by the law and may exclude hearsay, incompetent, irrelevant, immaterial or repetitious evidence and may make rulings to protect witnesses form undue harassment or oppression.

3.5. All evidence, including records and documents, in possession of the DepartmentDivision of which it desires to avail itself, shall be offered and made part of the record in a hearing, and no other factual information or evidence shall be considered in the determination of any cause. Any person who is required to meet any of the qualifications under the "Act" or these rules, whose rights may be affected in any hearing shall have the right to appear personally and by counsel to introduce evidence in their behalf, to cross-examine witnesses and to examine any document or other evidence submitted.

3.6. In any hearing held for the purpose of affording any applicant the opportunity to show his qualifications under this "Act" or these rules, the burden of proof shall be on the applicant. In hearings held for the purpose of revoking, suspending or reprimanding, the burden of proof shall be on the DepartmentDivision or Complainant.

3.7. Hearings shall be conducted by the hearing officer, as defined in Rule 1I of these rules.

3.8. Hearings shall be held at location to be determined by the DepartmentDivision.

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3.11. The DepartmentDivision will cause to be made an official record of the proceedings.

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Rule 4. Mandatory Educational Seminar

4.1. All applicants for a license as a used motor vehicle dealer, as described in Ark. Code Ann. Section 23-112-601 et seq. prior to obtaining a license, are required to attend a DepartmentDivision approved educational seminar.

4.2. In order to be approved by the DepartmentDivision, a seminar must meet the following criteria to the satisfaction of the DepartmentDivision:

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- B.** The names of the individuals who will be conducting the seminar must be submitted with the application for approval of the seminar. Said individuals shall demonstrate knowledge of these rules and general provisions by having at least one year of experience with the used motor vehicle industry in Arkansas or a related area as determined by the DepartmentDivision; and
- C.** The proposal for approval of a seminar shall include a course outline, along with proposed materials to be used in the instruction. The course outline must provide for, at a minimum, instruction in each of the following areas:
 - 1.** requirements of Act 490 of 1993, as amended, for obtaining a license as a used motor vehicle dealer;
 - 2.** overview of related state statutes, ~~regulations~~ and DepartmentDivision rules;
 - 3.** laws concerning titles, tags and taxes;
 - 4.** applicable laws and rules concerning required record keeping;
 - 5.** The Deceptive Trade Practices Act, including, but not limited to, advertising, unfair and deceptive sales practices and odometer requirements;
 - 6.** such general discussion items as may be determined by the DepartmentDivision to be of significance or concern.

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- F.** In the event the employee attending the required course as a representative of the licensee shall cease employment with the licensee company for any reason, the licensee company shall within ten (10) days notify the DepartmentDivision. The licensee shall then designate another bona fide, full-time employee who must complete the mandatory course within 120 days of the date of such notification.

4.3. The corporation administering the mandatory course shall be certified by the DepartmentDivision. Application for certification shall be on a form prescribed by the DepartmentDivision, and shall include the following:

- ...
D. A list of the times, dates and locations of all courses to be taught, provided such list may be changed or updated if notification of such change or updating is provided to the DepartmentDivision a minimum of seven (7) days prior to the course being presented.

...
4.4. A corporation certified by the DepartmentDivision to conduct the mandatory training course may utilize video equipment for the presentation of portions of the course in lieu of live instructors, provided that a copy of the video has been presented to the DepartmentDivision and the DepartmentDivision has provided written approval of the contents; provided that when such video is utilized, the certified corporation shall provide a proctor or proctors to assure attendance of the applicants for licensing. Such manner for proctoring shall be approved by the DepartmentDivision prior to implementation of the use of video equipment as an alternative to live instructors.

4.5. A corporation certified by the DepartmentDivision to conduct the mandatory training course shall, within five (5) days of the completion of such course, provide to the DepartmentDivision on a form prescribed by the DepartmentDivision a list of all persons completing the course and, in the case of a renewal of license, the DepartmentDivision-assigned control number of the licensee.

4.6. Failure of any corporation certified by the DepartmentDivision, or any licensee, to fulfill the requirements of this Rule shall result in suspension or revocation of the certification of the corporation or the license of the licensee. Provided, the corporation or licensee shall have the right to appeal such suspension or revocation as provided in Rule 3 of these Rules.

Rule 5. Reciprocal, Temporary, and Expedited Licensure

5.1. An applicant who holds a Used Motor Vehicle Dealer License in another state, territory, or district of the United States may obtain a reciprocal Arkansas license if he or she meets the requirements set forth in Ark. Code Ann. § 23-112-607. The reciprocity applicant must submit the required forms and applicable fees.

5.2. An applicant for a reciprocal Arkansas license who resides in a state, territory, or district of the United States that does not require licensure to sell used motor vehicles may obtain a reciprocal Arkansas license if he or she meets the requirements set forth in Ark. Code Ann. § 23-112-607. The reciprocity applicant must submit the required forms and applicable fees.

5.3. An applicant for a temporary Arkansas license may obtain a six (6) month temporary Arkansas license if he or she meets the requirements set

forth in Ark. Code Ann. § 23-112-607. The temporary applicant must submit the required forms and applicable fees.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H2/13/19

A Bill

HOUSE BILL 1301

5 By: Representative Cozart
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE RED TAPE REDUCTION EXPEDITED
9 TEMPORARY AND PROVISIONAL LICENSURE ACT; TO AUTHORIZE
10 OCCUPATIONAL LICENSING ENTITIES TO GRANT EXPEDITED
11 TEMPORARY AND PROVISIONAL LICENSING FOR CERTAIN
12 INDIVIDUALS; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO CREATE THE RED TAPE REDUCTION
16 EXPEDITED TEMPORARY AND PROVISIONAL
17 LICENSURE ACT; TO AUTHORIZE OCCUPATIONAL
18 LICENSING ENTITIES TO GRANT EXPEDITED
19 TEMPORARY AND PROVISIONAL LICENSING FOR
20 CERTAIN INDIVIDUALS.
21
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23

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

26 SECTION 1. DO NOT CODIFY. Title.

27 This act shall be known and may be cited as the "Red Tape Reduction
28 Expedited Temporary and Provisional Licensure Act."
29

30 SECTION 2. DO NOT CODIFY. Legislative findings and intent.

31 (a) The General Assembly finds that:

32 (1) Arkansas is taking a leading role in the nationwide pursuit
33 of reforms to the system of occupational licensing;

34 (2) Arkansas became one (1) of eleven (11) states chosen to
35 participate in the Occupational Licensing Policy Learning Consortium, an
36 initiative funded by a grant from the United States Department of Labor and



1 supported in partnership with the National Conference of State Legislatures,
2 the Council of State Governments, and the National Governors Association;

3 (3) Governor Asa Hutchinson appointed seventeen (17) individuals
4 to the Red Tape Reduction Working Group to review and address occupational
5 licensing regulations that create unnecessary barriers to labor market entry;
6 and

7 (4) The Red Tape Reduction Working Group issued a final report
8 to the Governor in the fall of 2018 with five (5) recommendations for
9 substantive legislative reform, which are to:

10 (A) Establish an expedited procedure for occupational
11 licensing entities to collectively submit administrative rules that are
12 responsive to new legislation;

13 (B) Extend Acts 2017, No. 781, to allow repeal of
14 subsections of rules;

15 (C) Establish provisions to allow certain agencies to
16 consider occupational relevance with regard to criminal background issues;

17 (D) Authorize occupational licensing entities to identify
18 types of individuals or entities that may be issued temporary or provisional
19 licenses; and

20 (E) Establish a systematic process for review of:

21 (i) New occupational licensure and occupational
22 licensing entities; and

23 (ii) Existing occupational licensure and
24 occupational licensing entities.

25 (b) It is the intent of the General Assembly to authorize occupational
26 licensing entities to identify types of individuals or entities that may be
27 issued temporary or provisional licenses.

28
29 SECTION 3. Arkansas Code Title 17, Chapter 1, Subchapter 1, is amended
30 to add an additional section to read as follows:

31 17-1-108. Expedited temporary and provisional licensure.

32 (a) As used in this section:

33 (1) "Individual" means a natural person, firm, association,
34 partnership, corporation, or other entity that may hold an occupational
35 licensure;

36 (2) "Occupational licensing entity" means an office, board,

1 commission, department, council, bureau, or other agency of state government
2 having authority to license, certify, register, permit, or otherwise
3 authorize an individual to engage in a particular occupation or profession;
4 and

5 (3) "Occupational licensure" means a license, certificate,
6 registration, permit, or other form of authorization required by law or rule
7 that is required for an individual to engage in a particular occupation or
8 profession.

9 (b) An occupational licensing entity shall by rule adopt the least
10 restrictive requirements for occupational licensure for an individual who:

11 (1) Demonstrates that he or she:

12 (A) Holds an occupational licensure that is substantially
13 similar to practice in the field of his or her occupation or profession in
14 another state, territory, or district of the United States;

15 (B) Holds his or her occupational licensure in good
16 standing;

17 (C) Has not had his or her occupational licensure revoked
18 for:

19 (i) An act of bad faith; or

20 (ii) A violation of law, rule, or ethics;

21 (D) Is not holding a suspended or probationary
22 occupational licensure in any state, territory, or district of the United
23 States; and

24 (E) Is sufficiently competent in his or her field; and

25 (2) Pays any occupational licensure fee required by law or rule.

26 (c)(1)(A) An occupational licensing entity shall comply with the
27 requirements under subsection (b) of this section by adopting the least
28 restrictive rule that allows for reciprocity or licensure by endorsement.

29 (B) The rule adopted under subdivision (c)(1)(A) of this
30 section shall provide the procedure by which an occupational licensing entity
31 shall grant a temporary and provisional occupational licensure for ninety
32 (90) days or longer to an individual under subsection (b) of this section if
33 presented with evidence of a current and active occupational licensure that
34 is substantially similar to practice in the field of his or her occupation or
35 profession in another state, territory, or district of the United States.

36 (2) If a state, territory, or district of the United States does

1 not require occupational licensure for a profession that requires
2 occupational licensure in this state, an occupational licensing entity shall
3 adopt a rule that is least restrictive to permit an individual who is
4 sufficiently competent in his or her field to obtain occupational licensure
5 for that occupation or profession in this state.

6 (3) The occupational licensing entity may require additional
7 state-specific education for an individual with an occupational licensure in
8 another state, territory, or district of the United States that does not
9 offer reciprocity similar to reciprocity under this section to individuals
10 with occupational licensure in this state.

11 (d)(1) Except as provided under subdivision (d)(2) of this section, an
12 occupational licensing entity shall not require an individual who meets the
13 requirements of subsection (b) of this section to participate in the
14 apprenticeship, education, or training required as a prerequisite to
15 occupational licensure of a new professional in the field.

16 (2) The occupational licensing entity may require the individual
17 to participate in continuing education or training if the continuing
18 education or training is required for all professionals in the field to
19 maintain the occupational licensure.

20 (e) If a criminal background check is required of an applicant for an
21 initial occupational licensure or of a person currently holding an
22 occupational licensure, then the occupational licensing entity may require a
23 person seeking his or her occupational licensure under this section to meet
24 the same criminal background check requirements as the applicant for an
25 initial occupational licensure or as the person currently holding an
26 occupational licensure.

27 (f) The occupational licensing entity may require the individual
28 applying for occupational licensure under this section to meet any bonding,
29 financial statement, or insurance requirements that are applicable to all
30 applicants.

31 (g) This section shall not apply to:

32 (1) Reciprocity or license by endorsement provisions under §§
33 17-12-308, 17-26-315, 17-27-308, 17-28-306, 17-31-308, 17-36-304, 17-42-305,
34 17-43-307, 17-83-305, 17-88-305, 17-89-305, 17-90-302, 17-92-114, 17-92-308,
35 17-93-414, 17-97-306, 17-99-304, 17-100-304, and 17-103-302; or

36 (2) The occupational licensing entities that administer the

1 reciprocity provisions under subdivision (g)(1) of this section.

2 (h) An occupational licensing entity may enter into written agreements
3 with similar occupational licensing entities of another state, territory, or
4 district of the United States as necessary to assure for licensees in this
5 state have comparable nonresident licensure opportunities as those
6 opportunities available to nonresidents by occupational licensing entities in
7 this state.

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/s/Cozart

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APPROVED: 3/12/19

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