

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 1687 of the Regular Session

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

As Engrossed: H3/22/05 H3/25/05

A Bill

HOUSE BILL 2848

5 By: Representative Schulte
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8 **For An Act To Be Entitled**

9 AN ACT TO ESTABLISH PROCEDURES FOR THE DELIVERY
10 PRIOR TO SALE OF A MOTOR VEHICLE TO A CONSUMER;
11 AND FOR OTHER PURPOSES.
12

13 **Subtitle**

14 TO ESTABLISH PROCEDURES FOR THE DELIVERY
15 PRIOR TO SALE OF A MOTOR VEHICLE TO A
16 CONSUMER.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 23, Chapter 112, Subchapter 3 is
22 amended to add an additional section to read as follows:

23 23-112-316. Delivery prior to sale – Disclosures.

24 (a) As used in this section:

25 (1) “Delivery prior to sale” means a delivery of a motor vehicle
26 by a new motor vehicle dealer to a consumer prior to the completion and
27 execution by both parties of a contract for sale; and

28 (2)(A) “Contract for sale” means the final agreement between a
29 new motor vehicle dealer and a consumer that:

30 (i) Includes all material terms of the sale of a
31 motor vehicle; and

32 (ii) Is binding upon the seller, the buyer, and any
33 necessary third party financier.

34 (B) “Contract for sale” includes a financing agreement and
35 all material financing terms if the motor vehicle is to be financed.



1 (b) If a new motor vehicle dealer engages in a delivery prior to sale,
2 then the new motor vehicle dealer shall provide the consumer with an
3 agreement for delivery prior to sale at the time of delivery of the motor
4 vehicle to the consumer.

5 (c)(1) The agreement for delivery prior to sale shall be:

6 (A) Printed in at least 12-point type; and

7 (B) Signed by the consumer and the new motor vehicle
8 dealer or the dealer's representative.

9 (2) The agreement for delivery prior to sale shall not be
10 considered a contract for sale.

11 (d) The agreement for delivery prior to sale shall include all of the
12 following terms:

13 (1) Unless the consumer is approved for financing and both
14 parties have executed a contract for sale, then the new motor vehicle dealer
15 shall not:

16 (A) Deposit or cash any down payment provided by the
17 consumer; and

18 (B) Sell any motor vehicle that is presented by the
19 consumer as a trade-in;

20 (2) The consumer retains the right to cancel the purchase of a
21 motor vehicle if:

22 (A) The new motor vehicle dealer changes any terms; or

23 (B) The consumer fails to obtain financing that meets the
24 agreed upon interest rate; and

25 (3) If a consumer who executes an agreement for delivery prior
26 to sale chooses not to execute a contract for sale or otherwise cancels the
27 purchase as provided under this section, then:

28 (A) The new motor vehicle dealer shall not:

29 (i) Impose any charge or penalty against the
30 consumer; or

31 (ii) Deposit or cash any down payment provided by
32 the consumer;

33 (B) The new motor vehicle dealer shall immediately return
34 any motor vehicle that was presented by the consumer as a trade-in; and

35 (4) If the consumer decides to not purchase the motor vehicle,
36 the consumer shall return the motor vehicle to the new motor vehicle dealer

1 within forty-eight (48) hours after the consumer notifies the dealer.

2 (e) If a consumer fails to return a motor vehicle pursuant to (d)(4)
3 of this section, then the new motor vehicle dealer may recover the vehicle
4 without the necessity of judicial process if the recovery is possible without
5 committing an act of breaking or entering or breach of the peace.

6 (f) The Arkansas Motor Vehicle Commission shall promulgate rules and
7 regulations to implement, enforce, and administer this section.

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9 SECTION 2. Arkansas Code Title 23, Chapter 112, Subchapter 6 is
10 amended to add an additional section to read as follows:

11 23-112-613. Delivery prior to sale – Disclosures.

12 (a) As used in this section:

13 (1) “Delivery prior to sale” means a delivery of a motor vehicle
14 by a used motor vehicle dealer to a consumer prior to the completion and
15 execution by both parties of a contract for sale; and

16 (2)(A) “Contract for sale” means the final agreement between a
17 used motor vehicle dealer and a consumer that:

18 (i) Includes all material terms of the sale of a
19 motor vehicle; and

20 (ii) Is binding upon the seller, the buyer, and any
21 necessary third party financier.

22 (B) “Contract for sale” includes a financing agreement and
23 all material financing terms if the motor vehicle is to be financed.

24 (b) If a used motor vehicle dealer engages in a delivery prior to sale
25 then the used motor vehicle dealer shall provide the consumer with an
26 agreement for delivery prior to sale at the time of delivery of the motor
27 vehicle to the consumer.

28 (c)(1) The agreement for delivery prior to sale shall be:

29 (A) Printed in at least 12-point type; and

30 (B) Signed by the consumer and the used motor vehicle
31 dealer or the dealer’s representative.

32 (2) The agreement for delivery prior to sale shall not be
33 considered a contract for sale.

34 (d) The agreement for delivery prior to sale shall include all of the
35 following terms:

36 (1) Unless the consumer is approved for financing and both

1 parties have executed a contract for sale, then the used motor vehicle dealer
2 shall not:

3 (A) Deposit or cash any down payment provided by the
4 consumer; and

5 (B) Sell any motor vehicle that is presented by the
6 consumer as a trade-in;

7 (2) The consumer retains the right to cancel the purchase of a
8 motor vehicle if:

9 (A) The used motor vehicle dealer changes any terms; or

10 (B) The consumer fails to obtain financing that meets the
11 agreed upon interest rate; and

12 (3) If a consumer who executes an agreement for delivery prior
13 to sale chooses not to execute a contract for sale or otherwise cancels the
14 purchase as provided under this section, then:

15 (A) The used motor vehicle dealer shall not:

16 (i) Impose any charge or penalty against the
17 consumer; or

18 (ii) Deposit or cash any down payment provided by
19 the consumer;

20 (B) The used motor vehicle dealer shall immediately return
21 any motor vehicle that was presented by the consumer as a trade-in; and

22 (4) If the consumer decides to not purchase the motor vehicle,
23 the consumer shall return the motor vehicle to the used motor vehicle dealer
24 within forty-eight (48) hours after the consumer notifies the dealer.

25 (e) If a consumer fails to return a motor vehicle pursuant to (d)(4)
26 of this section, then the used motor vehicle dealer may recover the vehicle
27 without the necessity of judicial process if the recovery is possible without
28 committing an act of breaking or entering or breach of the peace.

29 (f) The Department of Arkansas State Police shall promulgate rules and
30 regulations to implement, enforce, and administer this section.

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32 /s/ Schulte

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35 APPROVED: 4/05/2005

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