

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.

INTERIM STUDY PROPOSAL 2009-133

State of Arkansas

As Engrossed: H4/2/09

87th General Assembly

A Bill

Regular Session, 2009

HOUSE BILL 2106

By: Representative Sample

Filed with: House Interim Committee on Public Transportation
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO INCREASE THE PROTECTIONS FOR CONSUMERS
OF USED MOTOR VEHICLES; TO REDUCE THE MISUSE OR
ILLEGAL USE OF TEMPORARY CARDBOARD TAGS; TO
PROVIDE A FUNDING MECHANISM FOR THE REGULATION OF
THE SALE OF USED MOTOR VEHICLES; AND FOR OTHER
PURPOSES.

Subtitle

TO INCREASE THE PROTECTIONS FOR
CONSUMERS OF USED MOTOR VEHICLES.

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

SECTION 1. NOT TO BE CODIFIED. Legislative findings.

The General Assembly finds:

(1) Consumers are vulnerable to unscrupulous practices of persons who are not authorized to sell used motor vehicles from locations that are not subject to regulation by the Department of Arkansas State Police; and

(2) The sale of motor vehicles by individuals who are not licensed as motor vehicle dealers and from locations that are not subject to regulation:

(A) Increases the likelihood that the consumer is sold an unsafe, rebuilt, salvage, or mechanically deficient motor vehicle;



1 (B) Increases the likelihood that the consumer will have
2 little if any recourse against the seller; and

3 (C) Increases the number of motor vehicles that are sold
4 illegally.

5
6 SECTION 2. Arkansas Code § 23-112-602(11)(A), regarding the
7 definitions related to used motor vehicle sales, is amended to read as
8 follows:

9 (11)(A)(i) “Used motor vehicle dealer”, hereinafter referred to
10 as “dealer”, means any person, wholesaler, or auto auction who, for a
11 commission or with intent to make a profit or gain of money or other thing of
12 value, sells, brokers, exchanges, rents, or leases with the option to
13 purchase or own, or attempts to negotiate a sale or exchange of an interest
14 in any used motor vehicle, or who is wholly or in part in the business of
15 buying, selling, trading, or exchanging used motor vehicles, whether or not
16 such motor vehicles are owned by the person.

17 (ii) The sale or attempted sale of five (5) or more
18 used motor vehicles per household in any one (1) calendar year ~~shall be is~~
19 prima facie evidence and shall constitute constitutes a rebuttable
20 presumption that a person is engaged in the business of selling used motor
21 vehicles.

22
23 SECTION 3. Arkansas Code § 23-112-605, regarding the violations
24 related to used motor vehicle sales, is amended to add additional
25 subdivisions to read as follows:

26 (12) Sell or attempt to sell a motor vehicle if the dealer’s
27 license has expired for more than thirty-one (31) days; or

28 (13) Use for an unlawful purpose, including the avoidance of the
29 payment of taxes, a temporary cardboard tag issued under § 27-14-1701 et seq.

30
31 SECTION 4. Arkansas Code § 23-112-606 is amended to read as follows:
32 23-112-606. License required.

33 It ~~shall be is~~ unlawful for ~~any~~ a person to engage in business as a
34 used motor vehicle dealer or to sell a vehicle not ~~his or her own~~ titled and
35 registered in the person’s name with the Office of Motor Vehicle of the
36 Revenue Division of the Department of Finance and Administration without

1 obtaining a used motor vehicle dealer's license, except that a person defined
2 as a salesperson in § 23-112-602 may act on behalf of the dealer by whom such
3 a person is employed.

4

5 SECTION 5. Arkansas Code § 23-112-607(c), regarding a used motor
6 vehicle dealer's license, is amended to read as follows:

7 (c) The department shall require in relation to the application the
8 following information and verification ~~prior to~~ before issuing a license
9 certificate:

10 (1) A photograph of the business location;

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

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

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

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

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

21 (7) That the applicant has a working telephone number listed in
22 the name of the business;

23 (8) That the applicant has a sign identifying the establishment
24 as a used motor vehicle dealership ~~legible~~ from the street, road, or highway,
25 and a picture ~~thereof~~ of the establishment;

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

29 (10) ~~Whether~~ Proof of whether the applicant has ever:

30 (A) ~~been~~ Been issued a motor vehicle dealer's license;

31 and

32 (B) ~~if the applicant has ever had~~ Had a motor vehicle
33 dealer's license suspended or revoked;

34 (11)(A) Except as provided in subdivision (c)(11)(B) of this
35 section, an affidavit from a department officer or a designee of the
36 department stating that the officer or a designee of the department has

1 inspected the facility within thirty (30) days before issuance or renewal of
2 a license and found it to be in compliance with the requirements for
3 application.

4 (B) If a licensee has been continuously licensed at the
5 same facility for ten (10) years or more, then the licensee shall only be
6 required to comply with subdivision (c)(11)(A) of this section one (1) time
7 every other year; and

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

11
12 SECTION 6. Arkansas Code § 23-112-608(a)(2)(A), regarding the license
13 certificate fees for a used motor vehicle dealer, is amended to read as
14 follows:

15 (2)(A) The fee shall be for the licensing period ~~beginning on~~
16 ~~January 1 of each~~ of one (1) year and ending on December 31 of each year and
17 ~~shall be renewable during the month of January following its expiration,~~
18 ~~unless the Department of Arkansas State Police provides by rule a staggered~~
19 ~~method of annual renewal~~ from the month of issuance, and the renewal shall be
20 completed in the last month before the license certificate expires.

21
22 SECTION 7. Arkansas Code § 23-112-611(b), regarding records to be
23 maintained by a licensed used motor vehicle dealer, is amended to read as
24 follows:

25 (b) Dealers shall maintain copies of all documents executed in
26 conjunction with any transaction, which may include bills of sale, titles,
27 odometer statements, invoices, affidavits of alteration, and reassignments,
28 and shall be open to inspection to any Department of Arkansas State Police
29 officer or the designee of the Department of Arkansas State Police acting in
30 an official capacity during reasonable business hours.

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32
33 /s/ Sample
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36 Filed Date: 04/09/2009 By: JSE\VJF