

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/10/99

A Bill

SENATE BILL 431

5 By: Senators Harriman, Russ, Argue, Hill, Webb
6 By: Representatives Teague, Trammell, House, Harris, Wood, Magnus, R. Smith, Booker, Sheppard,
7 Womack, Bennett, Wilkinson, J. Lewellen, T. Thomas, Bush, Shoffner, T. Smith, Creekmore
8
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For An Act To Be Entitled

10 "AN ACT TO AMEND ARKANSAS CODE 23-112-607 TO ESTABLISH
11 AN EDUCATION PROGRAM FOR USED MOTOR VEHICLE DEALERS;
12 AND FOR OTHER PURPOSES. "
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Subtitle

15 "TO ESTABLISH AN EDUCATION PROGRAM FOR
16 USED MOTOR VEHICLE DEALERS. "
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code 23-112-607 is amended to read as follows:

23 "23-112-607. Dealer license.

24 (a)(1) Persons wishing to obtain a used motor vehicle dealer's license
25 shall submit a fully executed application on such used motor vehicle dealer
26 application forms as may be prescribed by the Department of Arkansas State
27 Police.

28 (2) Said application shall be verified by the oath or affirmation
29 of the applicant.

30 (b) The Department of Arkansas State Police shall require in relation
31 to the application the following information and verification prior to issuing
32 a license certificate:

33 (1) A photograph of the business location;

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

36 (3) Proof of liability insurance coverage on all vehicles to be

1 offered for sale in an amount equal to or greater than the amount required by
2 the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.;

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

5 (5) A list of salesmen to be employed;

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

8 (7) That the applicant has a telephone number listed in the name
9 of the business;

10 (8) That the applicant has a sign identifying the establishment
11 as a used motor vehicle dealership legible from the street, road, or highway,
12 and a picture thereof;

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

16 (10) Whether the applicant has ever been issued a motor vehicle
17 dealer's license and if the applicant has ever had a motor vehicle dealer's
18 license suspended or revoked;

19 (11) An affidavit from a state police officer stating that said
20 officer has inspected the facility and found it to be in compliance with the
21 requirements for application; and

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

25 (c)(1) Each applicant shall obtain a corporate surety bond in the penal
26 sum of twenty-five thousand dollars (\$25,000) on a bond form approved by the
27 state; provided, that an applicant for a license at multiple locations may
28 provide a corporate surety bond in the penal sum of one hundred thousand
29 dollars (\$100,000) covering all licensed locations in lieu of separate bonds
30 for each individual location.

31 (2) The bond shall be an indemnity for any loss and reasonable
32 attorney's fees sustained by a retail buyer by reason of the acts of the
33 person bonded when such act constitutes a violation of this law.

34 (3) Provided, the surety shall in no event be liable for more
35 than twenty-five thousand dollars (\$25,000).

36 (4) The bond shall be executed in the name of the State of

1 Arkansas or any aggrieved party.

2 (5) The proceeds of the bonds shall be paid either to the State
3 of Arkansas or to the retail buyer upon a judgment from an Arkansas court of
4 competent jurisdiction against the principal and in favor of the aggrieved
5 party or the State of Arkansas.

6 (6) Provided, the surety shall in no event be required to pay any
7 judgment obtained by fraud or collusion, as between the dealer and the retail
8 buyer, or which was rendered against a person bonded for an act that does not
9 constitute a violation of this subchapter, which defenses may be raised at any
10 time, subject to applicable statute of limitations.

11 (d)(1) Effective November 15, 1999, every application for the issuance
12 or renewal of a used motor vehicle dealer's license shall be accompanied by,
13 or supported by, such evidence as the department shall prescribe, documenting
14 the completion of a three (3) hour educational seminar, approved by the
15 department, during the twelve (12) month period immediately preceding the date
16 of the application.

17 (2) The educational seminar shall include, but is not limited to,
18 the dealer requirements of this subchapter; the rules and general provisions
19 promulgated to implement, enforce and administer this subchapter; the
20 requirements of the Motor Vehicle Division of the Department of Finance and
21 Administration; and such other information that will promote good business
22 practices. Such educational seminar requirement shall not include written or
23 oral exams.

24 (3) Each educational seminar must be sponsored by a non-profit
25 corporation, authorized to conduct business in Arkansas, that develops and
26 presents educational programs which enhance the knowledge and competence of
27 used motor vehicle dealers, their sales persons and service personnel for the
28 benefit of the public.

29 (4) The department shall promulgate rules to implement this
30 subsection."

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32 SECTION 2. All provisions of this act of a general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the Code.

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36 SECTION 3. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not affect
2 other provisions or applications of the act which can be given effect without
3 the invalid provision or application, and to this end the provisions of this
4 act are declared to be severable.

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6 SECTION 4. All laws and parts of laws in conflict with this act are
7 hereby repealed.

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9 SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the
10 Eighty-second General Assembly that it is in the best interests of the people
11 of this state that used motor vehicle dealers be familiar with current laws
12 relating to licensing and regulation of such dealers; that at the present
13 time, no such knowledge or education is required; that it is urgently needed
14 and that this act should be given effect immediately to require such
15 education. Therefore, an emergency is declared to exist and this act being
16 immediately necessary for the preservation of the public peace, health and
17 safety shall become effective on the date of its approval by the Governor. If
18 the bill is neither approved nor vetoed by the Governor, it shall become
19 effective on the expiration of the period of time during which the Governor
20 may veto the bill. If the bill is vetoed by the Governor and the veto is
21 overridden, it shall become effective on the date the last house overrides the
22 veto.

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/s/ Harriman, et al