

State of Arkansas  
85th General Assembly  
Regular Session, 2005

# A Bill

HOUSE BILL 2796

By: Representatives L. Evans, Bolin, Roebuck

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW PERTAINING TO USED MOTOR  
VEHICLE DEALERS; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAW PERTAINING TO USED  
MOTOR VEHICLE DEALERS.

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

SECTION 1. Arkansas Code § 23-112-602(9), concerning the definition of  
“used motor vehicle dealer”, is amended to read as follows:

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

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

SECTION 2. Arkansas Code § 23-112-602, regarding the definitions  
pertaining to used motor vehicle dealers and buyers, is amended to add an  
additional subdivision to read as follows:



1           (12) "Designee" means a person or entity that:

2                   (A) Agrees to perform inspections of used motor vehicle  
3 dealers under this subchapter on behalf of the Department of Arkansas State  
4 Police; and

5                   (B) The Department of Arkansas State Police determines is  
6 appropriately suited for serving as a designee under this subchapter.

7  
8           SECTION 3. Arkansas Code § 23-112-603 is amended to add an additional  
9 subsection to read as follows:

10           (d)(1) A used motor vehicle dealer licensed under this subchapter  
11 shall maintain a licensed location.

12                   (2) When a used motor vehicle dealer changes or moves his or her  
13 licensed location, within fifteen (15) calendar days of the relocation, the  
14 used motor vehicle dealer shall notify the Department of Arkansas State  
15 Police in writing of the dealership name, the previous location, and the new  
16 location.

17                   (3)(A) If the Department of Arkansas State Police determines  
18 that the used motor vehicle dealer's business location has moved and  
19 notification to the department has not been properly made, the department  
20 shall levy a fine equal to the amount of the license fee.

21                   (B) The fine collected pursuant to subdivision (d)(3)(A)  
22 shall be remitted to the Department of Arkansas State Police and shall be  
23 deposited into the State Treasury as special revenue to the credit of the  
24 Department of Arkansas State Police.

25  
26           SECTION 4. Arkansas Code § 23-112-607 is amended to read as follows:  
27           23-112-607. Dealer license.

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

32                   (2) The application shall be verified by the oath or affirmation  
33 of the applicant.

34                   (b) An applicant for a used motor vehicle dealer license or a licensee  
35 seeking to renew a used motor vehicle dealer license shall establish that he  
36 or she has sold at least five (5) used motor vehicles during the previous

1 calendar year.

2 ~~(b)~~(c) The department shall require in relation to the application the  
3 following information and verification prior to issuing a license  
4 certificate:

5 (1) A photograph of the business location;

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

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

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

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

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

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

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

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

24 (10) Whether the applicant has ever been issued a motor vehicle  
25 dealer's license, and if the applicant has ever had a motor vehicle dealer's  
26 license suspended or revoked;

27 (11)(A) ~~An~~ Except as provided in subdivision (c)(11)(B) of this  
28 section, an affidavit from a Department of Arkansas State Police officer or a  
29 designee of the department stating that the officer or a designee of the  
30 department has inspected the facility within thirty (30) days before issuance  
31 or renewal of a license and found it to be in compliance with the  
32 requirements for application.

33 (B) If a licensee has been continuously licensed at the  
34 same facility for ten (10) years or more, then the licensee shall only be  
35 required to comply with subdivision (c)(11)(A) one (1) time every other year;  
36 and

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

~~(e)~~(d)(1)(A) Each applicant shall obtain a corporate surety bond in the penal sum of twenty-five thousand dollars (\$25,000) on a bond form approved by the state.

(B) However, an applicant for a license at multiple locations may provide a corporate surety bond in the penal sum of one hundred thousand dollars (\$100,000) covering all licensed locations in lieu of separate bonds for each individual location.

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

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

(4) The bond shall be executed in the name of the State of Arkansas or any aggrieved party.

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

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

SECTION 5. Arkansas Code § 23-112-608(a), concerning license certificate fees, is amended to read as follows:

(a)(1) The fee for a license certificate shall be ~~one hundred dollars~~ ~~(\$100)~~ two hundred fifty dollars (\$250) per year for each used motor vehicle dealer licensed.

(2)(A) The fee shall be for the licensing period beginning on January 1 of each year and ending on December 31 of each year and shall be renewable during the month of January following its expiration, unless the Department of Arkansas State Police provides by rule a staggered method of

1 annual renewal.

2 (B)(i) If a license certificate has been expired for at  
3 least thirty-one (31) days but less than six (6) months, then the used motor  
4 vehicle dealer shall remit a late fee of thirty-five dollars (\$35.00) before  
5 the used motor vehicle dealer's application shall be accepted.

6 (ii)(a) A license that is not renewed within six (6)  
7 months of its expiration date shall be deemed permanently expired.

8 (b) If a used motor vehicle dealer license has  
9 permanently expired, then the used motor vehicle dealer may reapply for  
10 licensure provided that the used motor vehicle dealer completes an  
11 application for licensure and remits all fees pursuant to this section.

12 (3) A dealer having more than one (1) location will receive an  
13 additional certificate for each second and subsequent location for ~~twenty-~~  
14 ~~five dollars (\$25.00)~~ one hundred twenty-five dollars (\$125) each.