

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.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H2/28/07

A Bill

HOUSE BILL 1718

5 By: Representatives Overbey, Abernathy, L. Cowling, Davis, L. Evans, Glidewell, Harrelson, Hoyt, D.
6 Hutchinson, Hyde, Kidd, King, Pierce, Reynolds, J. Roebuck, Shelby, Stewart, Wills, Wyatt
7

For An Act To Be Entitled

10 AN ACT TO AMEND THE MOTOR VEHICLE CONSUMER
11 PROTECTION ACT REGARDING FEES CHARGED FOR
12 HANDLING AND PROCESSING THE SALE OR LEASE OF A
13 NEW OR USED MOTOR VEHICLE; AND FOR OTHER
14 PURPOSES.

Subtitle

16 TO AMEND THE MOTOR VEHICLE CONSUMER
17 PROTECTION ACT REGARDING FEES CHARGED
18 FOR HANDLING AND PROCESSING THE SALE OR
19 LEASE OF A NEW OR USED MOTOR VEHICLE.
20

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22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24
25 SECTION 1. Arkansas Code Title 23, Chapter 112, Subchapter 3 is
26 amended to add an additional section to read as follows:

27 23-112-317. Motor vehicle dealer service and handling fees.

28 (a) A motor vehicle dealer may fill in the blanks on standardized
29 forms in connection with the sale or lease of a new or a used motor vehicle
30 if the motor vehicle dealer does not charge for the service of filling in the
31 blanks or otherwise charge for preparing documents.

32 (b)(1) A motor vehicle dealer may charge a service and handling fee in
33 connection with the sale or lease of a new or a used motor vehicle for:

34 (A) The handling, processing, and storage of documents;

35 and

36 (B) Other administrative and clerical services.



1 (2)(A) The service and handling fee may be charged to allow cost
2 recovery for motor vehicle dealers.

3 (B) A portion of the service and handling fee may result
4 in profit to the motor vehicle dealer.

5 (c)(1) The Arkansas Motor Vehicle Commission shall determine by rule
6 the amount of the service and handling fee that may be charged by a motor
7 vehicle dealer. The service and handling fee shall be no less than zero
8 dollars (\$0.00) and no more than one hundred twenty-nine dollars (\$129).

9 (2) If a service and handling fee is charged under this section,
10 the service and handling fee shall be:

11 (A) Charged to all retail customers; and

12 (B) Disclosed on the retail buyer's order form as a
13 separate itemized charge.

14 (d) A preliminary worksheet on which a sale price is computed and that
15 is shown to the purchaser, a retail buyer's order form from the purchaser, or
16 a retail installment contract shall include in reasonable proximity to the
17 place on the document where the service and handling fee authorized by this
18 section is disclosed:

19 (1) The amount of the service and handling fee; and

20 (2) The following notice in type that is bold-faced,
21 capitalized, underlined, or otherwise conspicuously set out from the
22 surrounding written material:

23 "A SERVICE AND HANDLING FEE IS NOT AN OFFICIAL FEE. A
24 SERVICE AND HANDLING FEE IS NOT REQUIRED BY LAW BUT MAY BE CHARGED TO THE
25 CUSTOMER FOR PERFORMING SERVICES AND HANDLING DOCUMENTS RELATING TO THE
26 CLOSING OF A SALE OR LEASE. THE SERVICE AND HANDLING FEE MAY RESULT IN
27 PROFIT TO THE DEALER. THE SERVICE AND HANDLING FEE DOES NOT INCLUDE PAYMENT
28 FOR THE PREPARATION OF LEGAL DOCUMENTS. THIS NOTICE IS REQUIRED BY LAW."

29 (e) The Arkansas Motor Vehicle Commission may promulgate rules to
30 implement, enforce, and administer this section.

31
32 SECTION 2. Arkansas Code Title 23, Chapter 112, Subchapter 6 is
33 amended to add an additional section to read as follows:

34 23-112-617. Used motor vehicle dealer service and handling fee.

35 (a) A used motor vehicle dealer may fill in the blanks on standardized
36 forms in connection with the sale or lease of used motor vehicles if the

1 motor vehicle dealer does not charge for the service of filling in the blanks
2 or otherwise charge for preparing documents.

3 (b)(1) A used motor vehicle dealer may charge a service and handling
4 fee in connection with the sale or lease of a used motor vehicle for:

5 (A) The handling, processing, and storage of documents;
6 and

7 (B) Other administrative and clerical services.

8 (2)(A) The service and handling fee may be charged to allow cost
9 recovery for used motor vehicle dealers.

10 (B) A portion of the service and handling fee may result
11 in profit to the used motor vehicle dealer.

12 (c)(1) The Department of Arkansas State Police shall determine by rule
13 the amount of the service and handling fee that may be charged by a used
14 motor vehicle dealer. The service and handling fee shall be no less than zero
15 dollars (\$0.00) and no more than one hundred twenty-nine dollars (\$129).

16 (2) If a service and handling fee is charged under this section, the
17 service and handling fee shall be:

18 (A) Charged to all retail customers; and

19 (B) Disclosed on the retail buyer's order form as a
20 separate itemized charge.

21 (d) A preliminary work sheet on which a sale price is computed and
22 that is shown to the purchaser, a retail buyer's order form from the
23 purchaser, or a retail installment contract shall include in reasonable
24 proximity to the place on the document where the service and handling fee
25 authorized by this section is disclosed:

26 (1) The amount of the service and handling fee; and

27 (2) The following notice in type that is bold-faced,
28 capitalized, underlined, or otherwise conspicuously set out from the
29 surrounding written material:

30 "A SERVICE AND HANDLING FEE IS NOT AN OFFICIAL FEE. A
31 SERVICE AND HANDLING FEE IS NOT REQUIRED BY LAW BUT MAY BE CHARGED TO THE
32 CUSTOMER FOR PERFORMING SERVICES AND HANDLING DOCUMENTS RELATING TO THE
33 CLOSING OF A SALE OR LEASE. THE SERVICE AND HANDLING FEE MAY RESULT IN
34 PROFIT TO THE DEALER. THE SERVICE AND HANDLING FEE DOES NOT INCLUDE PAYMENT
35 FOR THE PREPARATION OF LEGAL DOCUMENTS. THIS NOTICE IS REQUIRED BY LAW."

36 (e) The Department of Arkansas State Police may promulgate rules to

1 implement, enforce, and administer this section.

2
3 SECTION 3. Arkansas Code § 23-112-315 is repealed.

4 ~~(a) A motor vehicle dealer may charge a documentary fee for services~~
5 ~~rendered to, for, or on behalf of a purchaser in preparing, handling, and~~
6 ~~processing documents relating to, and closing a retail installment~~
7 ~~transaction involving, a new motor vehicle.~~

8 ~~(b) If a documentary fee is charged under this section, the fee must~~
9 ~~be:~~

10 ~~(1) Charged to all purchasers, cash buyers, and credit buyers;~~
11 ~~and~~

12 ~~(2) Disclosed on the buyer's order form as a separate itemized~~
13 ~~charge.~~

14 ~~(c) A preliminary work sheet on which a sale price is computed and~~
15 ~~that is shown to the purchaser, a buyers' order form from the purchaser, or a~~
16 ~~retail installment contract shall include in reasonable proximity to the~~
17 ~~place on the document where the documentary fee is disclosed:~~

18 ~~(1) The amount of the fee; and~~

19 ~~(2) The following notice in type that is bold faced,~~
20 ~~capitalized, or underlined or otherwise conspicuously set out from the~~
21 ~~surrounding written material:~~

22 ~~"A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT~~
23 ~~REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND~~
24 ~~PERFORMING SERVICES RELATING TO THE CLOSING OF A SALE. THIS NOTICE IS~~
25 ~~REQUIRED BY LAW."~~

26 ~~(d) The Arkansas Motor Vehicle Commission is authorized to promulgate~~
27 ~~rules and regulations to set a reasonable limit on the amount to be charged~~
28 ~~for a documentary fee under subsection (a) of this section and to implement,~~
29 ~~enforce, and administer this section.~~

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31 SECTION 4. Arkansas Code § 23-112-612 is repealed.

32 ~~23-112-612. Used motor vehicle dealer documentary fees—Disclosures.~~

33 ~~(a) A used motor vehicle dealer may charge a documentary fee for~~
34 ~~services rendered to, for, or on behalf of a purchaser in preparing,~~
35 ~~handling, and processing documents relating to, and closing a retail~~
36 ~~installment transaction involving, a motor vehicle.~~

1 ~~(b) If a documentary fee is charged under this section, the fee must~~
2 ~~be:~~

3 ~~(1) Charged to all purchasers, cash buyers, and credit buyers;~~
4 ~~and~~

5 ~~(2) Disclosed on the buyers' order form as a separate itemized~~
6 ~~charge.~~

7 ~~(c) A preliminary work sheet on which a sale price is computed and~~
8 ~~that is shown to the purchaser, a buyers' order form from the purchaser, or a~~
9 ~~retail installment contract shall include in reasonable proximity to the~~
10 ~~place on the document where the documentary fee is disclosed:~~

11 ~~(1) The amount of the fee; and~~

12 ~~(2) The following notice in type that is bold faced,~~
13 ~~capitalized, or underlined or otherwise conspicuously set out from the~~
14 ~~surrounding written material:~~

15 ~~"A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT~~
16 ~~REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND~~
17 ~~PERFORMING SERVICES RELATING TO THE CLOSING OF A SALE. THIS NOTICE IS~~
18 ~~REQUIRED BY LAW."~~

19 ~~(d) The Department of Arkansas State Police is authorized to~~
20 ~~promulgate rules and regulations to implement, enforce, and administer this~~
21 ~~section.~~

22
23 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
24 General Assembly of the State of Arkansas that currently a lawsuit is
25 challenging the charging of documentary fees motor vehicle dealers as part of
26 the sale of a motor vehicle; that the circuit court has found that the
27 documentary fee which is a fee charged for the preparation of documents by
28 the motor vehicle dealer is the unauthorized practice of law ; and that this
29 act is immediately necessary to prevent the ongoing problem and to prohibit
30 motor vehicle dealers from charging documentary fees. Therefore, an
31 emergency is declared to exist and this act being necessary for the
32 preservation of the public peace, health, and safety shall become effective
33 on:

34 (1) The date of its approval by the Governor;

35 (2) If the bill is neither approved nor vetoed by the Governor,
36 the expiration of the period of time during which the Governor may veto the

1 bill; or

2 (3) If the bill is vetoed by the Governor and the veto is
3 overridden, the date the last house overrides the veto.

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5 */s/ Overbey, et al*

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