

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: H3/12/07*

# A Bill

HOUSE BILL 2345

5 By: Representative Wills  
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## For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS MOTOR VEHICLE  
10 COMMISSION ACT, § 23-112-101 ET SEQ.; AND FOR  
11 OTHER PURPOSES.  
12

### Subtitle

14 TO AMEND THE ARKANSAS MOTOR VEHICLE  
15 COMMISSION ACT, § 23-112-101 ET SEQ.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code § 23-112-313(a), concerning warranty  
21 reimbursement, is amended to read as follows:

22 (a)(1) Every manufacturer, distributor, wholesaler, distributor branch  
23 or division, factory branch or division, or wholesale branch or division  
24 shall properly fulfill any warranty or recall agreement and adequately and  
25 fairly compensate each of its motor vehicle dealers for labor and parts.

26 (2) A manufacturer, distributor, wholesaler, distributor branch  
27 or division, factory branch or division, or wholesale branch or division may  
28 not otherwise recover its costs for reimbursing a dealer for parts and labor  
29 pursuant to this section.  
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31 SECTION 2. Arkansas Code § 23-112-313(b)(2), concerning rate of  
32 compensation, is amended to read as follows:

33 (2) In the determination of what constitutes reasonable compensation  
34 under this subsection, the principal factor to be given consideration shall  
35 be the prevailing wage rates, exclusive of routine maintenance, being paid by  
36 the dealer in the relevant market area in which the motor vehicle dealer is



1 doing business, and in no event shall the compensation of a motor vehicle  
2 dealer for warranty or recall service be less than the rates charged by the  
3 dealer for like service to retail customers for nonwarranty service and  
4 repairs.

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6 SECTION 3. Arkansas Code § 23-112-313(b)(3)(C), concerning right to  
7 appeal warranty and incentive chargeback, is amended to add an additional  
8 subdivision to read as follows:

9 (iv)(a) A dealer may file an appeal with the  
10 Arkansas Motor Vehicle Commission to protest any chargeback under this  
11 subdivision (b)(3)(C) within thirty (30) days of notification by the  
12 manufacturer or distributor.

13 (b) If a dealer files an appeal of the  
14 chargeback with the commission, the manufacturer or distributor shall not  
15 levy the chargeback until the appeal is resolved. The commission shall hold  
16 a hearing on the matter no later than one hundred twenty (120) days from the  
17 time the appeal is filed unless all parties have otherwise agreed to settle  
18 the matter.

19 (c) An appeal by the licensee under this  
20 subdivision (b)(3)(C)(iv) shall be in accordance with the provisions of § 23-  
21 112-501 et seq.

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23 SECTION 4. Arkansas Code § 23-112-403(a)(2)(E)(ii)(c), concerning the  
24 vehicle price offered to a dealer by the manufacturer, is amended to read as  
25 follows:

26 (c) So long as a manufacturer or distributor,  
27 or any agent thereof, offers to ~~sell or sells new motor vehicles to all motor~~  
28 ~~vehicle dealers at the same price~~ piggyback bid allowances to all motor  
29 vehicle dealers at the same allowance for sales to a local government in that  
30 dealer's relevant market area.

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32 SECTION 5. Arkansas Code § 23-112-403(a)(2)(K)(i), concerning the buy  
33 back provision, is amended to read as follows:

34 (i) The dealer cost plus any charges by the  
35 manufacturer, distributor, or a representative for distribution, delivery,  
36 and taxes, less all allowances paid to the dealer by the manufacturer,

1 distributor, or representative for new, unsold, undamaged, and complete motor  
2 vehicles;

3 (a) ~~of~~ Of current model year and one (1) year  
4 prior model year in the dealer's inventory; or

5 (b) If the current model is released before  
6 the first day of August of current model year and two (2) years' prior model  
7 year in the dealer's inventory;

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9 SECTION 6. Arkansas Code § 23-112-403(a)(2), concerning ownership and  
10 distribution of a line-make, is amended to add an additional subdivision to  
11 read as follows:

12 (P)(i) To fail to continue in full force and operation a  
13 motor vehicle dealer franchise agreement, notwithstanding a change, in whole  
14 or in part, of an established plan or system of distribution or ownership of  
15 the manufacturer of the motor vehicles offered for sale under the franchise  
16 agreement.

17 (ii) The appointment of a new importer or  
18 distributor for motor vehicles offered for sale under a franchise agreement  
19 described in subdivision (a)(2)(P)(i) of this section shall be deemed to be a  
20 change of an established plan or system of distribution.

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22 /s/ Wills  
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