

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

# A Bill

SENATE BILL 784

4  
5 By: Senators Malone, Altes  
6 By: Representatives Overbey, Abernathy, L. Cowling, Davis, L. Evans, Glidewell, Harrelson, Hoyt, D.  
7 Hutchinson, Hyde, Kidd, King, Pierce, Reynolds, J. Roebuck, Shelby, Stewart, Wills, Wyatt

## For An Act To Be Entitled

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9  
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.  
15

## Subtitle

16  
17 TO AMEND THE MOTOR VEHICLE CONSUMER  
18 PROTECTION ACT REGARDING FEES CHARGED  
19 FOR HANDLING AND PROCESSING THE SALE OR  
20 LEASE OF A NEW OR USED MOTOR VEHICLE.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

28 23-112-317. Motor vehicle dealer service and handling fees.

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

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

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



1                   (B) Other administrative and clerical services.

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

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

6                   (c)(1) The Arkansas Motor Vehicle Commission shall determine by rule  
7 the amount of the service and handling fee that may be charged by a motor  
8 vehicle dealer. The service and handling fee shall be between zero dollars  
9 (\$0.00) and one hundred twenty-nine dollars (\$129).

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

12                   (A) Charged to all retail customers; and

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

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

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

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

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

30                   (e) The commission may promulgate rules to implement, enforce, and  
31 administer this section.

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

35                   23-112-617. Used motor vehicle dealer service and handling fee.

36                   (a) A used motor vehicle dealer may fill in the blanks on standardized

1 forms in connection with the sale or lease of used motor vehicles if the  
 2 motor vehicle dealer does not charge for the service of filling in the blanks  
 3 or otherwise charge for preparing documents.

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

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

8 (B) Other administrative and clerical services.

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

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

13 (c)(1) The Department of Arkansas State Police shall determine by rule  
 14 the amount of the service and handling fee that may be charged by a used  
 15 motor vehicle dealer. The service and handling fee shall be between zero  
 16 dollars (\$0.00) and one hundred twenty-nine dollars (\$129).

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

19 (A) Charged to all retail customers; and

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

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

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

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

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

1        (e) The department may promulgate rules to implement, enforce, and  
 2 administer this section.

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

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

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

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

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

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

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

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

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

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

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

33        ~~23-112-612. Used motor vehicle dealer documentary fees—Disclosures.~~

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

1 ~~installment transaction involving, a motor vehicle.~~

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

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

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

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

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

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

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

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

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

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

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the  
2 bill; or

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

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