

State of Arkansas
87th General Assembly
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A Bill

HOUSE BILL 1327

By: Representatives Allen, Williams, Hardy, R. Green, T. Baker, W. Lewellen, Word, Everett, Pennartz,
Blount

For An Act To Be Entitled

AN ACT TO PROTECT CONSUMERS OF MOTOR VEHICLES
FROM EXPOSURE TO TOXIC CHEMICALS BY REQUIRING THE
SELLER OF A MOTOR VEHICLE TO DISCLOSE WHETHER THE
MOTOR VEHICLE WAS SEIZED PURSUANT TO A
METHAMPEHTAMINE-RELATED SEIZURE BY LAW
ENFORCEMENT; AND FOR OTHER PURPOSES.

Subtitle

TO PROTECT CONSUMERS OF MOTOR VEHICLES
BY REQUIRING THE SELLER TO DISCLOSE
WHETHER THE MOTOR VEHICLE IS FROM
METHAMPEHTAMINE-RELATED SEIZURE.

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

SECTION 1. Arkansas Code Title 4, Chapter 90, is amended to add an
additional subchapter to read as follows:

4-90-801. Title.

This subchapter shall be known and may be cited as the "Consumer
Protection from Toxic Chemicals in Motor Vehicles Act".

4-90-802. Definitions.

As used in this subchapter:

(1) "First purchaser" means the person who purchases a motor
vehicle from a methamphetamine-related seizure when the seller is a law
enforcement agency or the prosecuting attorney;



1 (2) “Methamphetamine” has the same meaning as provided in the
2 Uniform Controlled Substances Act, § 5-64-101 et seq.;

3 (3)(A) “Methamphetamine-related chemical substance” means a
4 substance intended to be used as a precursor in the manufacture of
5 methamphetamine or other chemical intended to be used in the manufacture of
6 methamphetamine.

7 (B) Intent may be demonstrated by the substance’s:
8 (i) Use;
9 (ii) Quantity;
10 (iii) Manner of storage; or
11 (iv) Proximity to another precursor or equipment
12 used to manufacture methamphetamine;

13 (4) “Methamphetamine-related seizure” means the seizure of a
14 motor vehicle by a law enforcement agency pursuant to an arrest related to
15 the use or possession of methamphetamine or possession of methamphetamine-
16 related chemical substances;

17 (5)(A) “Motor vehicle” means a self-propelled vehicle with tires
18 that is designed and used primarily for surface transportation on highways
19 and roads.

20 (B) “Motor vehicle” does not include vehicles operated
21 exclusively on railroad tracks;

22 (6) “Person” means an individual, firm, partnership,
23 incorporated or unincorporated association, or other legal or commercial
24 entity;

25 (7) “Repair” means to restore to useable condition by replacing
26 a part of a motor vehicle that is contaminated or otherwise damaged by a
27 methamphetamine or other chemical substance;

28 (8) “Title” means the certificate of title or other document
29 issued by this state or another state indicating ownership and includes a
30 manufacturer’s statement or certificate of origin; and

31 (9) “Transfer” means to change ownership by sale, gift, or other
32 means.

33
34 4-90-803. Disclosure requirements on transfer of a motor vehicle from
35 a methamphetamine-related seizure.

36 (a)(1) A law enforcement agency or prosecuting attorney that is

1 disposing of or otherwise transferring a motor vehicle from a
2 methamphetamine-related seizure shall provide written notice to the Office of
3 Motor Vehicle of the Revenue Division of the Department of Finance and
4 Administration of the status of the motor vehicle.

5 (2) The notice shall include the vehicle identification number
6 of the vehicle.

7 (3) The notice shall be printed on all subsequent titles issued
8 by the Office of Motor Vehicle.

9 (b) A law enforcement agency or prosecuting attorney that is disposing
10 of or otherwise transferring a motor vehicle from a methamphetamine-related
11 seizure shall affix a permanent decal on the driver-side door jam that says
12 "METHAMPHEAMINE-RELATED SEIZURE".

13 (c)(1) The first purchaser shall provide written notice to the
14 subsequent purchaser of the motor vehicle from a methamphetamine-related
15 seizure if the notice does not appear on the title documents.

16 (2)(A) If the notice that the motor vehicle is from a
17 methamphetamine-related seizure does not appear on the title documents at the
18 time of the transfer from the first purchaser to the subsequent purchaser,
19 the first purchaser shall provide written notice to the Office of Motor
20 Vehicle.

21 (B) The notice shall include the vehicle identification
22 number of the vehicle.

23 (C) The notice shall be printed on all subsequent titles
24 issued by the Office of Motor Vehicle.

25 (3) This subsection does not prohibit the subsequent purchaser
26 from providing notice to the Office of Motor Vehicle on the status of the
27 motor vehicle.

28
29 4-90-804. Penalties and enforcement.

30 (a)(1)(A) If a first purchaser or subsequent purchaser fails to
31 provide notice that the motor vehicle that is being sold is from a
32 methamphetamine-related seizure as required under § 4-90-803, an unfair or
33 deceptive act or practice as defined under the consumer protection laws under
34 Title 4 has occurred and is punishable as provided in this section.

35 (B) All remedies, penalties, and authority granted to the
36 Attorney General under the consumer protection laws under Title 4 shall be

1 available to the Attorney General for the enforcement of this subchapter as
 2 provided under subsection (a)(1)(A) of this section, including without
 3 limitation an action to:

4 (i) Enjoin the violation; and

5 (ii) Recover:

6 (a) Amounts for which the person is liable
 7 under § 4-90-805(a) to each private person; and

8 (b) Costs, investigative costs, and reasonable
 9 attorney's fees.

10 (2)(A) An action under this subsection may be brought in an
 11 appropriate court of competent jurisdiction in the county in which the person
 12 resides or transacts business or in the judicial district in which the state
 13 capital is located.

14 (B) The action must be brought no later than five (5)
 15 years after the claim accrues.

16 (b) If a person removes the decal required under § 4-9-803(b), an
 17 unfair or deceptive act or practice as defined under the consumer protection
 18 laws under Title 4 has occurred and is punishable as provided in this
 19 section.

20 (c)(1) A person who is found to have violated this subchapter shall be
 21 guilty of a Class C misdemeanor.

22 (2) If the person is a corporation, the penalties of this
 23 subsection also apply to a director, officer, or individual agent of a
 24 corporation who knowingly and willfully authorizes, orders, or performs an
 25 act in violation of this subchapter or a rule prescribed or order issued
 26 under this subchapter without regard to penalties imposed on the corporation.

27 (d) It is a defense to prosecution of a matter under this section if
 28 the defendant establishes that he or she is:

29 (1) A first purchaser that did not receive notice from the law
 30 enforcement agency or prosecuting attorney as provided under § 4-90-803(a);
 31 or

32 (2) A subsequent purchaser that did not receive notice from the
 33 first purchaser as provided under § 4-90-803(b).

34
 35 4-90-805. Civil actions by private persons.

36 (a)(1) A person that violates this subchapter or a rule prescribed

1 under this subchapter with the intent to conceal that a motor vehicle is from
2 a methamphetamine-related seizure is liable for three (3) times the actual
3 damages for repair of the motor vehicle, loss of use of the motor vehicle,
4 and medical expenses or one thousand five hundred dollars (\$1,500), whichever
5 is greater.

6 (2)(A) A person may bring a civil action to enforce a claim
7 under this subsection in an appropriate court of competent jurisdiction.

8 (B) The action must be brought no later than five (5)
9 years after the claim accrues.

10 (C) The court shall award costs and a reasonable
11 attorney's fee to the person when a judgment is entered for that person.

12 (b) This subchapter shall not limit in any way other statutory or
13 common law rights, causes of actions, or remedies that are otherwise
14 available to a person including without limitation an action for:

15 (1) Breach of warranty;

16 (2) Fraud;

17 (3) Negligent misrepresentation;

18 (4) Intentional misrepresentation;

19 (5) Deceptive trade practices actions;

20 (6) Rescission; or

21 (7) Revocation of acceptance.

22 (c) It is a defense to a claim brought under this section if the
23 defendant establishes that he or she is:

24 (1) A first purchaser that did not receive notice from the law
25 enforcement agency or prosecuting attorney as provided under § 4-90-803(a);
26 or

27 (2) A subsequent purchaser that did not receive notice from the
28 first purchaser as provided under § 4-90-803(b).

29
30 4-90-806. Rules.

31 The Director of the Department of Finance and Administration shall
32 adopt rules for the implementation and administration of this subchapter.