

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.

State of Arkansas  
87th General Assembly  
Regular Session, 2009

*As Engrossed: H2/17/09*

# 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 methamphetamine-related 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 and the first purchaser 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 (4)(A) If the first purchaser does not receive written notice  
10 before the sale, the sale is voidable at the option of the first purchaser.

11 (B) If the law enforcement agency or prosecuting attorney  
12 that sold the motor vehicle does not agree to return the first purchaser's  
13 money in exchange for the return of the car and the first purchaser has to  
14 seek relief in a court of competent jurisdiction, the seller shall reimburse  
15 the first purchaser for all fees and costs for the matter.

16 (b) A law enforcement agency or prosecuting attorney that is disposing  
17 of or otherwise transferring a motor vehicle from a methamphetamine-related  
18 seizure shall affix a permanent decal on the driver-side door jam that says  
19 "METHAMPHETAMINE-RELATED SEIZURE" before the vehicle is sold to the first  
20 purchaser.

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

24 (2)(A) If the notice that the motor vehicle is from a  
25 methamphetamine-related seizure does not appear on the title documents at the  
26 time of the transfer from the first purchaser to the subsequent purchaser,  
27 the first purchaser shall provide written notice to the Office of Motor  
28 Vehicle.

29 (B) The notice shall include the vehicle identification  
30 number of the vehicle.

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

33 (d)(1) If any subsequent purchaser of a motor vehicle from a  
34 methamphetamine-related seizure discovers the status of the motor vehicle but  
35 had not received written notice of the condition, the status was not on the  
36 title that he or she received, and there is no decal in the door, the

1 subsequent purchaser shall provide written notice to the Office of Motor  
2 Vehicle.

3 (2) The notice shall include the vehicle identification number  
4 of the vehicle.

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

7  
8 4-90-804. Penalties and enforcement.

9 (a)(1)(A) If a first purchaser or subsequent purchaser knows or should  
10 have known that the motor vehicle was from a methamphetamine-related seizure  
11 and fails to provide notice that the motor vehicle that is being sold is from  
12 a methamphetamine-related seizure as required under § 4-90-803, an unfair or  
13 deceptive act or practice as defined under the consumer protection laws under  
14 Title 4 has occurred and is punishable as provided in this section.

15 (B) All remedies, penalties, and authority granted to the  
16 Attorney General under the consumer protection laws under Title 4 shall be  
17 available to the Attorney General for the enforcement of this subchapter as  
18 provided under subsection (a)(1)(A) of this section, including without  
19 limitation an action to:

20 (i) Enjoin the violation; and

21 (ii) Recover:

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

24 (b) Costs, investigative costs, and reasonable  
25 attorney's fees.

26 (2)(A) An action under this subsection may be brought in an  
27 appropriate court of competent jurisdiction in the county in which the  
28 aggrieved purchaser resides or transacts business or in the judicial district  
29 in which the state capital is located.

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

32 (b) If a person knowingly or recklessly removes the decal required  
33 under § 4-9-803(b), an unfair or deceptive act or practice as defined under  
34 the consumer protection laws under Title 4 has occurred and is punishable as  
35 provided in this section.

36 (c)(1) A person who is found to have violated this subchapter shall be

1 guilty of a Class C misdemeanor.

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

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

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

12 (2) A subsequent purchaser that did not receive notice from the  
13 first purchaser as provided under § 4-90-803(c).

14  
15 4-90-805. Civil actions by private persons.

16 (a)(1) A person that violates this subchapter or a rule prescribed  
17 under this subchapter with the intent to conceal that a motor vehicle is from  
18 a methamphetamine-related seizure is liable for three (3) times the actual  
19 damages for repair of the motor vehicle, loss of use of the motor vehicle,  
20 and medical expenses or one thousand five hundred dollars (\$1,500), whichever  
21 is greater.

22 (2)(A) an aggrieved purchaser may bring a civil action to  
23 enforce a claim under this subsection in the county where he or she resides  
24 or where the vehicle was purchased.

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

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

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

32 (1) Breach of warranty;

33 (2) Fraud;

34 (3) Negligent misrepresentation;

35 (4) Intentional misrepresentation;

36 (5) Deceptive trade practices actions;

1           (6) Rescission; or

2           (7) Revocation of acceptance.

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

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

8           (2) A subsequent purchaser that did not receive notice from the  
9 first purchaser as provided under § 4-90-803(c).

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11          4-90-806. Rules.

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

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15                               */s/ Allen*  
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