

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 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 2106

4
5 By: Representative Sample
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7

For An Act To Be Entitled

9 AN ACT TO INCREASE THE PROTECTIONS FOR CONSUMERS
10 OF USED MOTOR VEHICLES; TO REDUCE THE MISUSE OR
11 ILLEGAL USE OF TEMPORARY CARDBOARD TAGS; TO
12 PROVIDE A FUNDING MECHANISM FOR THE REGULATION OF
13 THE SALE OF USED MOTOR VEHICLES; AND FOR OTHER
14 PURPOSES.

Subtitle

15
16 TO INCREASE THE PROTECTIONS FOR
17 CONSUMERS OF USED MOTOR VEHICLES.
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20

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

22
23 SECTION 1. NOT TO BE CODIFIED. Legislative findings.

24 The General Assembly finds:

25 (1) Consumers are vulnerable to unscrupulous practices of
26 persons who are not authorized to sell used motor vehicles from locations
27 that are not subject to regulation by the Department of Arkansas State
28 Police; and

29 (2) The sale of motor vehicles by individuals who are not
30 licensed as motor vehicle dealers and from locations that are not subject to
31 regulation:

32 (A) Increases the likelihood that the consumer is sold an
33 unsafe, rebuilt, salvage, or mechanically deficient motor vehicle;

34 (B) Increases the likelihood that the consumer will have
35 little if any recourse against the seller; and

36 (C) Increases the number of motor vehicles that are sold



1 illegally.

2

3 SECTION 2. Arkansas Code § 23-112-602(11)(A), regarding the
 4 definitions related to used motor vehicle sales, is amended to read as
 5 follows:

6 (11)(A)(i) “Used motor vehicle dealer”, hereinafter referred to
 7 as “dealer”, means any person, wholesaler, or auto auction who, for a
 8 commission or with intent to make a profit or gain of money or other thing of
 9 value, sells, brokers, exchanges, rents, or leases with the option to
 10 purchase or own, or attempts to negotiate a sale or exchange of an interest
 11 in any used motor vehicle, or who is wholly or in part in the business of
 12 buying, selling, trading, or exchanging used motor vehicles, whether or not
 13 such motor vehicles are owned by the person.

14 (ii) The sale or attempted sale of five (5) or more
 15 used motor vehicles per household in any one (1) calendar year ~~shall be~~ is
 16 prima facie evidence and ~~shall constitute~~ constitutes a rebuttable
 17 presumption that a person is engaged in the business of selling used motor
 18 vehicles.

19

20 SECTION 3. Arkansas Code § 23-112-605, regarding the violations
 21 related to used motor vehicle sales, is amended to add additional
 22 subdivisions to read as follows:

23 (12) Sell or attempt to sell a motor vehicle if the dealer’s
 24 license has expired for more than thirty-one (31) days; or

25 (13) Use for an unlawful purpose, including the avoidance of the
 26 payment of taxes, a temporary cardboard tag issued under § 27-14-1701 et seq.

27

28 SECTION 4. Arkansas Code § 23-112-606 is amended to read as follows:
 29 23-112-606. License required.

30 It ~~shall be~~ is unlawful for ~~any~~ a person to engage in business as a
 31 used motor vehicle dealer or to sell a vehicle not ~~his or her own~~ titled and
 32 registered in the person’s name with the Office of Motor Vehicle of the
 33 Revenue Division of the Department of Finance and Administration without
 34 obtaining a used motor vehicle dealer’s license, except that a person defined
 35 as a salesperson in § 23-112-602 may act on behalf of the dealer by whom such
 36 a person is employed.

1
2 SECTION 5. Arkansas Code § 23-112-607(c), regarding a used motor
3 vehicle dealer’s license, is amended to read as follows:

4 (c) The department shall require in relation to the application the
5 following information and verification ~~prior to~~ before issuing a license
6 certificate:

7 (1) A photograph of the business location;

8 (2) A corporate surety bond in the sum of at least twenty-five
9 thousand dollars (\$25,000);

10 (3) Proof of liability insurance coverage on all vehicles to be
11 offered for sale in an amount equal to or greater than the amount required by
12 the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.;

13 (4) A list of the persons or entities having any ownership
14 interest in the used vehicle dealership;

15 (5) A list of salespersons to be employed;

16 (6) That the applicant has a bona fide established place of
17 business used ~~primarily~~ for the sale of used motor vehicles;

18 (7) That the applicant has a working telephone number listed in
19 the name of the business;

20 (8) That the applicant has a sign identifying the establishment
21 as a used motor vehicle dealership ~~legible~~ from the street, road, or highway,
22 and a picture ~~thereof~~ of the establishment;

23 (9) That the applicant has a filing cabinet or other repository
24 adequate to secure the business records of the establishment under lock and
25 key or combination;

26 (10) ~~Whether~~ Proof of whether the applicant has ever:

27 (A) ~~been~~ Been issued a motor vehicle dealer’s license;

28 and

29 (B) ~~if the applicant has ever had~~ Had a motor vehicle
30 dealer’s license suspended or revoked;

31 (11)(A) Except as provided in subdivision (c)(11)(B) of this
32 section, an affidavit from a department officer or a designee of the
33 department stating that the officer or a designee of the department has
34 inspected the facility within thirty (30) days before issuance or renewal of
35 a license and found it to be in compliance with the requirements for
36 application.

1 (B) If a licensee has been continuously licensed at the
 2 same facility for ten (10) years or more, then the licensee shall only be
 3 required to comply with subdivision (c)(11)(A) of this section one (1) time
 4 every other year; and

5 (12) The name, address, and telephone number of the person
 6 designated to receive legal process in the event of the commencement of any
 7 legal action in any court against the applicant.

8
 9 SECTION 6. Arkansas Code § 23-112-608(a)(2)(A), regarding the license
 10 certificate fees for a used motor vehicle dealer, is amended to read as
 11 follows:

12 (2)(A) The fee shall be for the licensing period ~~beginning on~~
 13 ~~January 1 of each~~ of one (1) year ~~and ending on December 31 of each year and~~
 14 ~~shall be renewable during the month of January following its expiration,~~
 15 ~~unless the Department of Arkansas State Police provides by rule a staggered~~
 16 ~~method of annual renewal~~ from the month of issuance, and the renewal shall be
 17 completed in the last month before the license certificate expires.

18
 19 SECTION 7. Arkansas Code § 23-112-611(b), regarding records to be
 20 maintained by a licensed used motor vehicle dealer, is amended to read as
 21 follows:

22 (b) Dealers shall maintain copies of all documents executed in
 23 conjunction with any transaction, which may include bills of sale, titles,
 24 odometer statements, invoices, affidavits of alteration, and reassignments,
 25 and shall be open to inspection to any Department of Arkansas State Police
 26 officer or the designee of the Department of Arkansas State Police acting in
 27 an official capacity during reasonable business hours.

28
 29 SECTION 8. Arkansas Code Title 27, Chapter 14, Subchapter 17 is
 30 amended to add an additional section to read as follows:

31 27-14-1708. Reduction in misuse and illegal use of temporary cardboard
 32 tags.

33 (a) The purchaser of temporary cardboard tags under this subchapter
 34 shall establish that he or she is a licensed:

- 35 (1) New motor vehicle dealer under § 23-112-301;
- 36 (2) Used motor vehicle dealer under § 23-112-607;

1 (3) Manufacturer of motor vehicles under the Uniform Motor
 2 Vehicle Administration, Certificate of Title, and Antitheft Act, § 27-14-101
 3 et seq.; or

4 (4) Transporter of motor vehicles under the Uniform Motor
 5 Vehicle Administration, Certificate of Title, and Antitheft Act, § 27-14-101
 6 et seq.

7 (b)(1) In order to prevent the misuse and illegal use of temporary
 8 cardboard tags, the Office of Motor Vehicle is limited as to how many
 9 temporary cardboard tags that a purchaser can purchase in twelve (12) months.

10 (2)(A) The maximum number of temporary cardboard tags that a
 11 purchaser can purchase is the number of sales or transactions in the previous
 12 twelve-month period that required the use of a temporary cardboard tag plus
 13 ten percent (10%).

14 (B) If a purchaser has not been in business for twelve
 15 (12) months, then the office shall use the sales or transaction data
 16 available to determine the maximum number of temporary cardboard tags that
 17 can be issued to the purchaser.

18 (3)(A) A purchaser that has not been in business for a
 19 sufficient time to have sales or transaction data initially may be issued ten
 20 (10) temporary cardboard tags.

21 (B) A purchaser who is issued temporary cardboard tags
 22 under subdivision (b)(3)(A) of this section shall be issued additional
 23 temporary cardboard tags only upon establishing sales or transaction data
 24 sufficient to justify the issuance of additional temporary cardboard tags.

25 (c) The Office of Motor Vehicle shall develop and implement a plan to
 26 reduce the misuse and illegal use temporary cardboard tags issued under this
 27 subchapter.

28 (d) The Office of Motor Vehicle shall seek the input and advice of the
 29 Department of Arkansas State Police and the Arkansas Motor Vehicle Commission
 30 in the development and implementation of the plan under this section.

31 (e) The plan required by this section shall include:

32 (1) Security measures to ensure that the temporary cardboard
 33 tags are not being misused, used illegally, or purchased by a person or
 34 entity not authorized by law to use them; and

35 (2) A registration system that identifies the name of the motor
 36 vehicle dealer, manufacturer, or transporter who purchased the temporary

1 cardboard tags.

2 (f) By October 1, 2009, the Office of Motor Vehicle shall implement
3 the plan required by this section.

4 (g) The Office of Motor Vehicle may promulgate rules for the
5 administration of this section.

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7 SECTION 9. Arkansas Code § 23-112-614, concerning salvage auction
8 buyer's identification cards, is amended to add an additional subdivision to
9 read as follows:

10 (f)(1) A fee of ten dollars (\$10.00) is levied on the sale of each
11 motor vehicle at a salvage auction.

12 (2) The owner, manager, or person in charge of a salvage auction
13 shall collect the fee under this subsection.

14 (3) The fees collected under this subsection shall be remitted
15 to the State Treasury, there to be deposited as special revenues to the
16 credit of the Department of Arkansas State Police Fund to be used exclusively
17 for administering this subchapter and regulating the sale of used motor
18 vehicles.

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