

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  
4

As Engrossed: H4/2/09  
**A Bill**

HOUSE BILL 2106

5 By: Representative Sample  
6  
7

8 **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.

15  
16 **Subtitle**

17 TO INCREASE THE PROTECTIONS FOR  
18 CONSUMERS OF USED MOTOR VEHICLES.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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.

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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.

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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.

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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~~ 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.

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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.

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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.

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30 /s/ Sample  
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