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2 87th General Assembly
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4

A Bill

SENATE BILL 781

5 By: Senator Teague
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS MOTOR VEHICLE
10 COMMISSION ACT; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO AMEND THE ARKANSAS MOTOR VEHICLE
13 COMMISSION ACT.
14
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 23-112-103(8), regarding the definition of
20 "conversion" under the Arkansas Motor Vehicle Commission Act, is amended to
21 read as follows:

22 (8) "Conversion" means a motor vehicle other than an ~~ambulance~~
23 ~~or firefighting vehicle~~ exempted specialty vehicle that is substantially
24 modified by a person, firm, or corporation other than the manufacturer or
25 distributor of the chassis of the motor vehicle and ~~which~~ that has not been
26 the subject of a retail sale;
27

28 SECTION 2. Arkansas Code § 23-112-103(18), regarding the definition of
29 "motor vehicle" under the Arkansas Motor Vehicle Commission Act, is amended
30 to read as follows:

31 (18) "Motor vehicle" means ~~any motor-driven~~ a self-propelled
32 vehicle having two (2) or more wheels that has as its primary purpose the
33 transportation of a person, including, but not limited to, without limitation
34 all-terrain vehicles, automobiles, trucks, motorcycles, motor-driven cycles,
35 motor scooters, and motor homes;
36



SECTION 3. Arkansas Code § 23-112-103(19)(A)(i), regarding the definition of "motor vehicle dealer" under the Arkansas Motor Vehicle Commission Act, is amended to read as follows:

(19)(A)(i) "Motor vehicle dealer" means ~~any~~ a person that is:
(a) engaged ~~Engaged~~ in the business of selling, offering to sell, soliciting, or advertising the sale of servicing or repairing motor vehicles under a manufacturer's warranty, ~~regardless of the medium used, or possessing motor vehicles for the purpose of resale, either on his or her own account or on behalf of another, either as his or her primary business or incidental thereto; and~~
(b) Located at an established and permanent place of business under a franchise, sales and service agreement, or a bona fide contract in effect with a manufacturer or distributor.

SECTION 4. Arkansas Code § 23-112-103(31), regarding the definition of "used motor vehicle" under the Arkansas Motor Vehicle Commission Act, is amended to read as follows:

(31)(A) "Used motor vehicle" means ~~any~~ a motor vehicle:
(i) that has previously ~~For which title has been~~ sold, bargained, exchanged, given away, or ~~the title thereto~~ transferred from the person or corporation who first took ~~title~~ ownership from the manufacturer, distributor, dealer, or agents thereof; ~~or~~

(ii) So used as to have become what is commonly known as a "second hand motor vehicle" or a "previously owned motor vehicle".

(B) ~~In the event of a transfer that is reflected on the statement of origin from the original franchise dealer to any other dealer, individual, or corporation other than a franchise dealer of the same make of vehicle, the vehicle shall be considered a used motor vehicle~~ A new motor vehicle shall not be considered a used motor vehicle unless the motor vehicle has been:

(i) Placed in actual operation; and
(ii) Not held for resale by an owner that has:
(a) Been granted a certificate of title; and
(b) Registered the motor vehicle under the Uniform Motor Vehicle Administration, Certificate of Title, and Antitheft Act, § 27-14-101 et seq.;

SECTION 5. Arkansas Code § 23-112-103, regarding definitions under the Arkansas Motor Vehicle Commission Act, is amended to add an additional subdivision to read as follows:

(34)(A) "Line make of a motor vehicle" means a group or series of motor vehicles that have the same brand identification or brand name, based upon the manufacturer's trademark, trade name, or logo.

(B) "Line make of a motor vehicle" does not include motor homes; and

(35) "Line make of a motor home" means a specific series of recreational vehicle products that:

(A) Are identified by a common series trade name or trademark;

(B) Are targeted to a particular market segment, as determined by their décor, features, equipment, size, weight, and price range;

(C) Have lengths and interior floor plans that distinguish the recreational vehicles with substantially the same decor, equipment, features, price, and weight;

(D) Belong to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and

(E) The manufacturer-dealer agreement authorizes a dealer to sell.

SECTION 6. Arkansas Code § 23-112-301(a), regarding the licensing of new motor vehicle dealers, is amended to read as follows:

(a) Notwithstanding any other statute, the following acts are declared to be unlawful:

(1) The violation of any of the provisions of this chapter; and

(2) For any person to engage in business as, or serve in the capacity of, or act as a new motor vehicle dealer, motor vehicle salesperson, motor vehicle lessor, manufacturer, importer, distributor, factory branch or division, distributor branch or division, factory representative, distributor representative, second-stage manufacturer, or converter, as such, in ~~this~~ state Arkansas without first obtaining a license therefor as provided in this

chapter, regardless of whether or not the person maintains or has a place of business in ~~this state~~ Arkansas.

SECTION 7. Arkansas Code § 23-112-302(e), regarding the application for license as a new motor vehicle dealer, is amended to read as follows:

(e) The applicant for a license as a new motor vehicle dealer ~~must~~ shall furnish satisfactory evidence that the applicant:

(1) Maintains adequate space in the building or structure wherein the applicant's established business is conducted for the display of new motor vehicles, or will have the facilities within a reasonable time after receiving a license; ~~and~~

(2) Has or will have adequate facilities in the building or structure ~~for the repair and servicing of~~ to perform repair and service work on motor vehicles and ~~the adequate space for~~ storage of new parts and accessories for the motor vehicles; and

(3) Will perform repair and warranty services on a motor vehicle at the licensed location.

SECTION 8. Arkansas Code § 23-112-307 is amended to read as follows:
23-112-307. Expiration of license.

~~(a) Unless the Arkansas Motor Vehicle Commission shall by regulation provide by rule provides~~ to the contrary, all licenses issued to:

(1) ~~manufacturers~~ Manufacturers, distributors, factory or distributor branches, importers, second-stage manufacturers, converters, and their representatives expire June 30 following the date of issue; and

(2) ~~motor~~ Motor vehicle dealers, motor vehicle salespersons, and motor vehicle lessors ~~shall~~ expire December 31 following the date of issue.

~~(b) Unless the commission shall by regulation provide otherwise, all licenses issued to motor vehicle lessors, representatives, and motor vehicle salespersons shall expire June 30 following the date of issue.~~

~~(c) Unless the commission by regulation provides to the contrary, licenses relating to motor vehicles having fewer than four (4) wheels shall expire December 31 following the date of issue.~~

SECTION 9. Arkansas Code § 23-112-308(a), regarding the denial, revocation, and suspension of a new motor vehicle dealer license, is amended

1 to add additional subdivisions to read as follows:

2 (25) Using or permitting the use of a temporary cardboard
 3 buyer's tag assigned to the dealer for any purpose other than permitted under
 4 § 27-14-1705; and

5 (26) Failure of a dealer to submit or deliver a certificate of
 6 title or manufacturer's certificate of origin within a reasonable period of
 7 time.

8
 9 SECTION 10. Arkansas Code § 23-112-310(d)(1), regarding delivery,
 10 preparation, and warranty obligations, is amended to read as follows:

11 (d)(1)(A) ~~In no event shall any~~ A manufacturer, distributor,
 12 distributor branch or division, or factory or division branch shall not pay
 13 to any of its motor vehicle dealers a labor rate per hour or parts price for
 14 warranty work that is less than that charged by the dealer to its retail
 15 customers provided the rate is reasonable compared to other same line-make
 16 dealers in the state.

17 (B) Conversely, ~~no~~ a dealer shall not charge to its
 18 manufacturer, distributor, distributor branch or division, or factory branch
 19 or division a labor rate per hour or parts price in excess of the rate
 20 charged to its retail customers.

21 (C) In the case of a motor home, a warrantor shall
 22 reimburse the dealer for warranty parts at the actual wholesale cost plus a
 23 minimum thirty percent (30%) handling charge and the cost, if any, of freight
 24 to return the warranty parts to the warrantor.

25
 26 SECTION 11. Arkansas Code § 23-112-311(c) is amended to read as
 27 follows:

28 (c) In determining whether good cause has been established for not
 29 entering into a franchise establishing or relocating an additional new motor
 30 vehicle dealer for the same line make, the commission shall take into
 31 consideration the existing circumstances, including, ~~but not limited to~~
 32 without limitation:

33 (1) Permanency of the investment of both the existing and
 34 proposed new motor vehicle dealers;

35 (2) Growth or decline in population and new ~~car~~ motor vehicle
 36 registrations in the relevant market area;

1 (3) Effect on the consuming public in the relevant market area;

2 (4) Whether it is injurious or beneficial to the public welfare
3 for an additional new motor vehicle dealer to be established;

4 (5) Whether the new motor vehicle dealers of the same line make
5 in that relevant market area are providing adequate competition and
6 convenient customer care for the motor vehicles of the line make in the
7 market area which shall include the adequacy of motor vehicle sales and
8 service facilities, equipment, supply of motor vehicle parts, and qualified
9 service personnel; and

10 (6) Whether the establishment of an additional new motor vehicle
11 dealer would increase competition and, therefore, be in the public interest.
12

13 SECTION 12. Arkansas Code § 23-112-313 is amended to read as follows:

14 23-112-313. Warranty agreements.

15 (a) Every manufacturer, distributor, wholesaler, distributor branch or
16 division, factory branch or division, or wholesale branch or division shall
17 properly fulfill any warranty or recall agreement and adequately and fairly
18 compensate each of its motor vehicle dealers for labor and parts.

19 (b)~~(1)~~ ~~In no event shall the~~ The compensation shall not fail to
20 include reasonable compensation for diagnostic work, ~~as well as repair~~
21 ~~service, and labor, and parts.~~

22 (c)(1) Time allowances for the diagnosis and performance of warranty
23 or recall work and service shall be reasonable and adequate for the work to
24 be performed.

25 (2) In the determination of what constitutes reasonable
26 compensation for warranty or recall work and service under this subsection,
27 the principal factor to be ~~given consideration shall be~~ considered is the
28 prevailing wage rates, exclusive of routine maintenance, that are being paid
29 by the dealer in the relevant market area in which the motor vehicle dealer
30 is doing business, ~~and.~~

31 (3) ~~in no event shall the~~ The compensation of a motor vehicle
32 dealer for warranty or recall service shall not be less than the rates
33 charged by the dealer for like service to retail customers for nonwarranty
34 service and repairs provided the rate is reasonable compared to other same
35 line-make dealers in the state.

36 (d)(1)(A) The pricing for a recalled part shall not be reduced to an

1 amount that is less than the original dealer cost or price for the same part
 2 unless the manufacturer obtains a discounted rate for the recalled part from
 3 a supplier.

4 (B) A recalled part is considered the same part if it is
 5 substantially the same part regardless of the part number.

6 (2) Additionally, there shall be no requirement for A part-by-
 7 part analysis is not required in determining to determine the retail rate for
 8 parts.

9 (3) The allowable parts mark-up shall not be substituted for a
 10 handling allowance or similar pricing amount that results in the reduction of
 11 compensation for the dealer.

12 ~~(3)-(A)-(e)(1)~~ (1) All claims under this ~~subsection~~ section, either original
 13 or resubmitted, made by motor vehicle dealers for the labor and parts shall
 14 be either approved or disapproved within thirty (30) days following their
 15 approval or disapproval.

16 ~~(B)-(i)-(2)(A)(i)~~ (i) The motor vehicle dealer who submits a claim
 17 which is disapproved shall be notified in writing of the disapproval within
 18 the same period, and ~~each such~~ the notice shall state the specific grounds
 19 upon which the disapproval is based.

20 (ii) The motor vehicle dealer ~~shall be~~
 21 ~~permitted to~~ may correct and resubmit ~~such the~~ disapproved claims within
 22 thirty (30) days of receipt of disapproval.

23 ~~(ii)-(B)~~ (B) Any claims not specifically disapproved in writing
 24 within thirty (30) days from their submission shall be deemed approved, and
 25 payment shall follow within thirty (30) days.

26 ~~(iii)-(3)(A)~~ (3)(A) ~~No A~~ claim shall not be disapproved because ~~of~~ a
 27 clerical error was made ~~which that~~ does not render the amount of the claim
 28 incorrect.

29 (B) However, a dealer may contest the disapproval
 30 through the manufacturer's appeals process.

31 ~~(C)-(i)-(4)(A)~~ (4)(A) The manufacturer or franchiser ~~shall have the right~~
 32 ~~to~~ may:

33 (i) require Require documentation for claims;

34 (ii) and to audit Audit the claims within a
 35 one-year period from the date the claim was paid or credit issued by the
 36 manufacturer or franchiser; and

1 ~~(iii) to charge~~ Charge back any false or
2 unsubstantiated claims.

3 ~~(ii)(B)~~ The audit and charge-back provisions of this
4 ~~subdivision (b)(3)~~ subsection (e) also apply to all other incentive and
5 reimbursement programs for a period of twelve (12) months after the date of
6 the transactions that are subject to audit by the franchiser.

7 ~~(iii)(C)~~ However, the manufacturer retains the right to
8 charge back any fraudulent claim if the manufacturer establishes in a court
9 of competent jurisdiction in this state that the claim is fraudulent within a
10 period not to exceed two (2) years from the date of the claim in question.

11 ~~(iv)(a)(D)(i)~~ A dealer may file an appeal with the
12 Arkansas Motor Vehicle Commission to protest any chargeback under this
13 subdivision ~~(b)(3)(C)~~ (e)(4) within ~~thirty (30) days~~ ninety (90) days of
14 notification by the manufacturer or distributor.

15 ~~(b)(ii)~~ If a dealer files an appeal of the
16 chargeback with the commission, the manufacturer or distributor shall not
17 levy the chargeback until the appeal is resolved. The commission shall hold a
18 hearing on the matter no later than one hundred twenty (120) days from the
19 time the appeal is filed unless all parties have otherwise agreed to settle
20 the matter.

21 ~~(e)(iii)~~ An appeal by the licensee under this
22 subdivision ~~(b)(3)(C)(iv)~~ (e)(4)(D) shall be in accordance with ~~the~~
23 ~~provisions of~~ § 23-112-501 et seq.

24 ~~(e)(f)~~ This section ~~shall~~ does not apply to compensation for parts of
25 a motor home other than parts of a motorized chassis, engine, and power
26 train.

27
28 SECTION 13. Arkansas Code § 23-112-403(a)(2)(C)(v), regarding
29 manufacturers, distributors, second-stage manufacturers, importers, and
30 converters, is amended to read as follows:

31 ~~(v)(a) In the event of the termination or~~
32 ~~cancellation of~~ If the franchise agreement, sales and service agreement, or
33 bona fide contract or selling agreement is terminated or cancelled, the
34 terminating or canceling party shall notify the commission of the termination
35 or cancellation of the franchise or selling agreement at least sixty (60)
36 days before the effective date.

(b) This subdivision (a)(2)(C)(v) applies to both voluntary and involuntary termination or cancellation of the franchise or selling agreement;

SECTION 14. Arkansas Code § 23-112-403(a)(2)(K), regarding manufacturers, distributors, second-stage manufacturers, importers, and converters, is amended to read as follows:

(K) Notwithstanding the terms of any franchise agreement, to fail to pay to a dealer or any lienholder in accordance with their respective interests after the termination of franchise:

(i) The dealer cost plus any charges by the manufacturer, distributor, or a representative for distribution, delivery, and taxes, less all allowances paid to the dealer by the manufacturer, distributor, or representative for new, unsold, undamaged, and complete motor vehicles of current model year and one (1) year prior model year in the dealer's inventory;

(ii) The dealer cost of each new, unused, undamaged, and unsold part or accessory, ~~if the part or accessory: is in the current parts catalogue, and if the part or accessory was purchased by the dealer either directly from the manufacturer or distributor or from an outgoing authorized dealer as a part of the dealer's initial inventory~~

(a) Was purchased from the manufacturer by the dealer and is in the original package;

(b) Is identical to a part or accessory in the current parts catalogue except for the number assigned to the part or accessory; or

(c) Was purchased in the ordinary course of business by the dealer from another authorized dealer as demonstrated by a copy of an original invoice between dealers so long as the authorized dealer purchased the part or accessory directly from the manufacturer or distributor or from an outgoing authorized dealer as part of the dealer's initial inventory;

(iii) The fair market value of each undamaged sign owned by the dealer which bears a trademark or trade name used or claimed by the manufacturer, distributor, or representative, if the sign was purchased from or purchased at the request of the manufacturer, distributor, or

1 representative;

2 (iv) The fair market value of all special tools and
3 automotive service equipment owned by the dealer ~~which~~ that were recommended
4 in writing and designated as special tools and equipment and purchased from
5 or purchased at the request of the manufacturer, distributor, or
6 representative, if the tools and equipment are in usable and good condition
7 except for reasonable wear and tear;

8 (v) The cost of transporting, handling, packing, and
9 loading of motor vehicles, parts, signs, tools, and equipment subject to
10 repurchase;

11 (vi) The balance of all claims for warranty and
12 recall service and all other money owed by the manufacturer to the dealer;

13 (vii)(a) Compensation for the actual pecuniary loss
14 caused by the franchise termination, cancellation, or nonrenewal unless for
15 due cause.

16 (b) In determining the actual pecuniary loss,
17 the value of any continued service or parts business available to the dealer
18 for the line make covered by the franchise shall be considered. If the dealer
19 and the manufacturer, importer, or distributor cannot agree on the amount of
20 compensation to be paid under this subchapter, either party may file an
21 action in a court of competent jurisdiction; or

22 (viii) Any sums due as provided by subdivision
23 (a)(2)(K)(i) of this section within sixty (60) days after termination of a
24 franchise and any sums due as provided by subdivisions (a)(2)(K)(ii)-(vii) of
25 this section within ninety (90) days after termination of a franchise. As a
26 condition of payment, the dealer ~~is to~~ shall comply with reasonable
27 requirements with respect to the return of inventory as are set out in the
28 terms of the franchise agreement. A manufacturer, distributor, or
29 representative who fails to pay those sums within the prescribed time or at
30 such time as the dealer and lienholder, if any, proffer good title ~~prior to~~
31 before the prescribed time for payment, is liable to the dealer for:

32 (a) The greatest of dealer cost, fair market
33 value, or current price of the inventory;

34 (b) Interest on the amount due calculated at
35 the rate applicable to a judgment of a court; and

36 (c) Reasonable attorney's fees and costs;

SECTION 15. Arkansas Code § 23-112-403(a)(2)(M), regarding manufacturers, distributors, second-stage manufacturers, importers, and converters, is amended to read as follows:

(M)(i) To offer to sell or to sell any motor vehicle to a consumer, except through a licensed new motor vehicle dealer holding a franchise, a sales and service agreement, or a bona fide contract for the line make covering the new motor vehicle or as may otherwise be provided in subdivision (a)(3) of this section.

(ii) This subdivision (a)(2)(M) ~~shall~~ does not apply to manufacturer sales of new motor vehicles to the federal government, charitable organizations, or employees of the manufacturer;

SECTION 16. Arkansas Code § 23-112-404 is amended to read as follows:

23-112-404. Motor vehicle lessors.

It ~~shall be~~ is unlawful for a motor vehicle lessor or any agent, employee, or representative thereof:

(1) To represent and to offer for sale or to sell as a new ~~or unused~~ motor vehicle ~~any~~ a motor vehicle ~~which~~ that has been used or was intended to be used and operated for leasing or rental purposes or which is otherwise a used motor vehicle;

(2) To resort to, use, or employ any false, fraudulent, deceptive, or misleading advertising or representations in connection with the business of leasing or renting motor vehicles; or

(3) To sell or offer to sell a motor vehicle from an unlicensed location.

SECTION 17. Arkansas Code § 23-112-406(b), regarding requirements for acting as a broker, is amended to read as follows:

(b)(1) To effectuate this chapter, ~~the definition of~~ “arranges or offers to arrange a ~~transition~~ transaction” means soliciting or referring buyers for new motor vehicles for a fee, commission, or other valuable consideration.

(2) “Arranges or offers to arrange a transaction” does not include ~~Advertising is not included in this definition~~ advertising as long as the person’s business primarily includes the business of broadcasting,

printing, publishing, or advertising for others in their own names.

SECTION 18. Arkansas Code § 23-112-501 is amended to read as follows:
23-112-501. Right to hearing.

(a)(1) The Arkansas Motor Vehicle Commission shall not+ may
~~(1) Deny deny~~ an application for a license ~~without first giving~~
~~the applicant a hearing, or an opportunity to be heard, on the question of~~
~~whether he or she is qualified under the provisions of this chapter to~~
~~receive the license applied for, if the application is considered inadequate~~
after the initial review by the executive director.

(2) Within thirty (30) days after the executive director denies
an application under subdivision (a)(1) of this section, the affected
applicant may protest the executive director's decision and request a hearing
before the commission.

(b) The Arkansas Motor Vehicle Commission shall not:

~~(2)(1)~~ Revoke or suspend a license without first giving the
licensee a hearing, or an opportunity to be heard, on the question of whether
there are sufficient grounds under ~~the provisions of~~ this chapter upon which
to base the revocation or suspension; or

~~(3)(2)~~ Impose a civil penalty pursuant to § 23-112-314 without
first giving the respondent a hearing pursuant to the Arkansas Administrative
Procedure Act, § 25-15-201 et seq.

SECTION 19. Arkansas Code § 23-112-503(d), regarding the notice and
location of a hearing before the Arkansas Motor Vehicle Commission, is
amended to read as follows:

~~(d)(1) Any hearing shall be held in the county of the residence of the~~
~~party whose rights may be affected thereby or the county of that party's~~
~~principal place of business.~~

~~(2) If the party is a nonresident of the state, the hearing~~
~~shall be held in the county where the principal office of the commission is~~
located unless both parties agree to an alternate location.

SECTION 20. Arkansas Code § 27-14-1705 is amended to read as follows:
27-14-1705. Temporary cardboard buyer's tags.

(a) A dealer shall issue to a person who buys an unregistered vehicle

1 one (1) temporary cardboard buyer's tag for the vehicle.

2 (b)(1) The temporary cardboard buyer's tag is valid for the operation
3 of the vehicle until the earlier of:

4 (A) The date on which the vehicle is registered; or

5 (B) The thirtieth day after the date of purchase.

6 (2) If the date that a transferee of a motor vehicle must
7 register the vehicle is extended under § 27-14-903(a)(1), the dealer may
8 issue one (1) additional temporary cardboard buyer's tag to the transferee,
9 to expire thirty (30) days from the date that the additional temporary
10 cardboard buyer's tag was issued.

11 (3) A temporary cardboard buyer's tag also may be used for:

12 (A) A demonstration vehicle for a period of time not to
13 exceed seventy-two (72) hours for test drive purposes; or

14 (B) A loaner vehicle for a period of time not to exceed
15 fourteen (14) days to allow repairs on a vehicle.

16 (4) A temporary cardboard buyer's tag shall not be placed on
17 work or service vehicles owned by a dealer, manufacturer, or transporter.

18 (c)(1) The dealer shall show in ink on the temporary cardboard buyer's
19 tag the actual date of sale and any other information required by the
20 Director of the Department of Finance and Administration.

21 (2) The dealer ~~shall be~~ is responsible for affixing the
22 temporary cardboard buyer's tag to the vehicle as provided in this section.

23 (d) The temporary cardboard buyer's tag under this section shall be
24 placed at the location provided for the permanent motor vehicle license
25 plate.

26 (e) The dealer is responsible for the safekeeping and distribution of
27 each temporary cardboard buyer's tag that the dealer obtains from the
28 director.

29 (f) The director shall provide the specifications, form, and color of
30 the temporary cardboard buyer's tag.

31 (g)(1)(A) The dealer ~~shall be~~ is responsible for paying to the
32 director a fee to be set by the director, which shall not exceed one dollar
33 (\$1.00), for each temporary cardboard buyer's tag. The dealer shall pass this
34 fee on to the buyer to whom the tag was issued.

35 (B) The fee shall be collected by the director before
36 issuance of the temporary cardboard buyer's tag to the dealer.

(C) ~~No dealer shall be allowed to~~ A dealer shall not charge a customer a fee for a temporary cardboard buyer's tag higher than that charged to the dealer by the director.

(2) The gross receipts or gross proceeds derived from the sale or issuance of temporary cardboard buyer's tags under this section ~~shall be~~ are exempt from the Arkansas gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and any other state or local tax administered under those chapters.

(3) All fees collected by the director under this section shall be deposited into the State Treasury, and the Treasurer of State shall credit them as general revenues to the General Revenue Fund Account of the State Apportionment Fund.

(h) For each temporary cardboard buyer's tag provided to a buyer by the dealer, the dealer shall retain documentation containing:

- (1) The dealer's name;
- (2) The buyer's name;
- (3) The date the temporary cardboard buyer's tag was issued;
- (4) The vehicle's vehicle identification number;
- (5) The make and model of the vehicle; and
- (6) The expiration date of the temporary cardboard buyer's tag.

(i) To purchase temporary cardboard buyer's tags under this subchapter, the person shall establish that he or she is a licensed:

- (1) New motor vehicle dealer under § 23-112-301;
- (2) Used motor vehicle dealer under § 23-112-607;
- (3) Manufacturer of motor vehicles under this chapter; or
- (4) Transporter of motor vehicles under this chapter.

~~(i)-(j)~~(1) Any dealer, manager, salesperson, or employee of the dealer who pleads guilty or nolo contendere to or who is found guilty of the misuse of a temporary cardboard buyer's tag or of allowing anyone else to misuse a temporary cardboard buyer's tag is guilty of a violation under § 5-1-108 and shall be fined not more than two hundred fifty dollars (\$250) for the first offense, not more than five hundred dollars (\$500) for the second offense, and not more than one thousand dollars (\$1,000) for the third and subsequent offenses.

(2) In addition to criminal penalties under this subsection (j),

1 the use of temporary cardboard buyer's tags in a manner not authorized under
 2 this section may result in the denial, revocation, or suspension of the
 3 license of the new motor vehicle dealer, used motor vehicle dealer,
 4 manufacturer, or transporter.

5 ~~(j)~~(k) This section ~~shall~~ does not apply to an owner or lessee of a
 6 registered motor vehicle who elects to display a license plate on a
 7 replacement motor vehicle under § 27-14-902(a)(3)(B).
 8

9 SECTION 21. Arkansas Code § 14-22-101(8), regarding the definition of
 10 "used or secondhand motor vehicles, equipment, or machinery" used for county
 11 purchasing procedures, is amended to read as follows:

12 (8)(A) "Used or secondhand motor vehicles, equipment, or
 13 machinery" means any motor vehicles, equipment, or machinery at least two (2)
 14 years in age from the date of original manufacture or that has at least five
 15 hundred (500) working hours' prior use or ten thousand (10,000) miles' prior
 16 use.

17 (B)(i) Any purchase of a used motor vehicle, equipment, or
 18 machinery shall be accompanied by a statement in writing from the vendor on
 19 the bill of sale or other document that the motor vehicle, equipment, or
 20 machinery is at least two (2) years in age from the date of original
 21 manufacture or has been used a minimum of five hundred (500) hours or driven
 22 a minimum of ten thousand (10,000) miles.

23 (ii) This statement shall be filed with the county
 24 clerk at the time of purchase.
 25

26 SECTION 22. Arkansas Code § 14-22-106 is amended to read as follows:

27 14-22-106. Purchases exempted from soliciting bids.

28 The following listed commodities may be purchased without soliciting
 29 bids:

- 30 (1) Perishable foodstuffs for immediate use;
- 31 (2) Unprocessed feed for livestock and poultry;
- 32 (3) Advanced emergency medical services provided by a nonprofit
 33 corporation and proprietary medicines when specifically requested by a
 34 professional employee;
- 35 (4) Books, manuals, periodicals, films, and copyrighted
 36 educational aids for use in libraries and other informational material for

1 institutional purposes;

2 (5) Scientific equipment and parts therefor;

3 (6) Replacement parts and labor for repairs of machinery and
4 equipment;

5 (7) Commodities available only from the federal government;

6 (8)(A) Any commodities needed in instances in which an
7 unforeseen and unavoidable emergency has arisen in which human life, health,
8 or public property is in jeopardy.

9 (B) ~~However, no such~~ An emergency purchase under
10 subdivision (8)(A) of this section shall not be approved unless a statement
11 in writing ~~shall be~~ is attached to the purchase order describing the
12 emergency necessitating the purchase of ~~such~~ the commodity without
13 competitive bidding;

14 (9) Utility services, the rates for which are subject to
15 regulation by a state agency or a federal regulatory agency;

16 (10) Sand, gravel, soil, lumber, used pipe, or used steel;

17 (11) Used or secondhand motor vehicles, machinery, or equipment,
18 except that a used or secondhand motor vehicle that has been under lease to a
19 county when the vehicle has fewer than ten thousand (10,000) miles of use ~~may~~
20 shall not be purchased by the county when it has been used ten thousand
21 (10,000) miles or more except upon competitive bids as provided ~~for~~ in this
22 chapter;

23 (12) Machinery, equipment, facilities, or other personal
24 property purchased or acquired for, or in connection with, the securing and
25 developing of industry under ~~or pursuant to the provisions of Arkansas~~
26 ~~Constitution, Amendment 49 [repealed], the~~ Municipalities and Counties
27 Industrial Development Revenue Bond Law, § 14-164-201 et seq., or any other
28 provision of law pertaining to the securing and developing of industry;

29 (13) Registered livestock to be used for breeding purposes;

30 (14) Motor fuels, oil, asphalt, asphalt oil, and natural gas;

31 (15) Motor vehicles, equipment, machinery, material, or supplies
32 offered for sale at public auction or through a process requiring sealed
33 bids; ~~and~~

34 (16) All goods and services that are regularly provided to state
35 agencies and county government by the Department of Correction's various
36 penal industries;

1 (17) New motor vehicles from a motor vehicle dealer licensed
 2 under the Arkansas Motor Vehicle Commission Act, § 23-112-101 et seq., if the
 3 motor vehicle is purchased for an amount not to exceed the fleet price
 4 awarded by the Office of State Procurement and in effect at the time the
 5 county submits the purchase order for the same make and model motor vehicle;
 6 and

7 (18) The renewal or extension of the term of an existing
 8 contract.

9
 10 SECTION 23. Arkansas Code Title 14, Chapter 58, Subchapter 1 is
 11 amended to add an additional section to read as follows:

12 14-58-104. Specific purchases and contracts.

13 (a) The municipal governing body of a city of the first class, city of
 14 the second class, or an incorporated town may purchase the following
 15 commodities without soliciting bids:

16 (1) Motor fuels, oil, asphalt, asphalt oil, and natural gas; and

17 (2) New motor vehicles from a motor vehicle dealer licensed
 18 under the Arkansas Motor Vehicle Commission Act, § 23-112-101 et seq., if the
 19 motor vehicle is purchased for an amount not to exceed the fleet price
 20 awarded by the Office of State Procurement and in effect at the time the
 21 municipal governing body of a city of the first class, city of the second
 22 class, or an incorporated town submits the purchase order for the same make
 23 and model motor vehicle.

24 (b) The municipal governing body of a city of the first class, city of
 25 the second class, or an incorporated town may renew or extend the term of an
 26 existing contract without soliciting bids.

27
 28 SECTION 24. Arkansas Code § 14-58-303(b), regarding the power of
 29 municipalities to make purchases and enter into contracts, is amended to read
 30 as follows:

31 (b)(1)(A) ~~The~~ Except as provided under § 14-58-104, the municipal
 32 governing body of any city of the first class shall provide by ordinance the
 33 procedure for making all purchases which do not exceed the sum of twenty
 34 thousand dollars (\$20,000).

35 (B) ~~The~~ Except as provided under § 14-58-104, the
 36 municipal governing body of any city of the second class or incorporated town

1 may provide by ordinance the procedure for making all purchases.

2 (2)(A)(i) ~~In~~ Except as provided under § 14-58-104, in a city of
3 the first class where the amount of expenditure for any purpose or contract
4 exceeds the sum of twenty thousand dollars (\$20,000), the mayor or the
5 mayor's authorized representative shall invite competitive bidding on the
6 purpose or contract by legal advertisement in any local newspaper.

7 (ii) Bids received pursuant to the advertisement
8 shall be opened and read on the date set for receiving the bids in the
9 presence of the mayor or the mayor's authorized representative.

10 (iii) The mayor or the mayor's authorized
11 representative shall have exclusive power to award the bid to the lowest
12 responsible bidder, but may reject any and all bids received.

13 (B) The governing body by ordinance may waive the
14 requirements of competitive bidding in exceptional situations where this
15 procedure is deemed not feasible or practical or as provided under § 14-58-
16 104.

17
18 SECTION 25. EMERGENCY CLAUSE. It is found and determined by the
19 General Assembly of the State of Arkansas that motor vehicle dealers are
20 experiencing economic difficulties related to the state of the national
21 economy and the motor vehicle industry in particular; that an unprecedented
22 number of motor vehicle dealers may terminate their franchises as a result of
23 these economic conditions; and that this act is immediately necessary to
24 assist dealers that are facing possible termination of their franchise.
25 Therefore, an emergency is declared to exist and this act being immediately
26 necessary for the preservation of the public peace, health, and safety shall
27 become effective on:

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

29 (2) If the bill is neither approved nor vetoed by the Governor,
30 the expiration of the period of time during which the Governor may veto the
31 bill; or

32 (3) If the bill is vetoed by the Governor and the veto is
33 overridden, the date the last house overrides the veto.
34
35
36