

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S3/18/15

A Bill

SENATE BILL 917

5 By: Senator B. Sample
6

For An Act To Be Entitled

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

Subtitle

11 TO AMEND THE ARKANSAS MOTOR VEHICLE
12 COMMISSION ACT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 *SECTION 1. Arkansas Code § 23-112-103(2)(A), concerning the definition*
20 *of all-terrain vehicle, is amended to read as follows:*

21 (A) *Is an off-highway vehicle:*

22 (i) *Fifty inches (50") or less in width, having a*
23 *dry weight of ~~eight hundred pounds (800 lbs.)~~ nine hundred pounds (900 lbs.)*
24 *or less, and traveling on three (3) or more low-pressure tires, with a seat*
25 *designed to be straddled by the operator, a Class 1 all-terrain vehicle; or*

26 (ii) *With a width that exceeds ~~fifty inches (50")~~*
27 *forty-five inches (45") or having a dry weight that exceeds ~~eight hundred~~*
28 *pounds (800 lbs.) six hundred pounds (600 lbs.), traveling on four (4) or*
29 *more low-profile, low-pressure tires, and having a bench seat or one (1) or*
30 *more bucket seats, a Class 2 all-terrain vehicle;*

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32 *SECTION 2. Arkansas Code § 23-112-103(23), concerning the definition*
33 *of motor vehicle salesperson, is amended to add an additional subdivision to*
34 *read as follows:*

35 (E) *Is employed by a motor vehicle dealer as a*
36 *salesperson for whom a motor vehicle dealer requires to have licensure for*



1 simultaneous employment as a finance manager, insurance manager, service
2 manager, parts manager, or other specified office personnel concerned with
3 the sale of a motor vehicle under this chapter;
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5 SECTION 3. Arkansas Code § 23-112-310(d)(3), concerning delivery,
6 preparation, and warranty obligations between the manufacturer and motor
7 vehicle dealers, is amended to read as follows:

8 (3)(A) In no event shall ~~any~~ a manufacturer, distributor,
9 distributor branch or division, or factory or division branch refuse to pay
10 ~~to any a of its~~ motor vehicle ~~dealers~~ dealer for ~~any~~ warranty work, as long
11 as the work in question was properly performed in accordance with safety and
12 repair specifications, bulletins, and requirements of the manufacturer,
13 distributor, distributor branch or division, or factory or division branch.

14 (B) A requirement that a motor vehicle dealer utilize a
15 service technician with a specific qualification, training, or certification
16 level may be satisfied if:

17 (i) The motor vehicle dealer submits to the
18 manufacturer, distributor, distributor branch or division, or factory or
19 factory division branch a written request listing the specific repairs to be
20 completed and seeking preapproval authorizing the motor vehicle dealer to
21 utilize a service technician who does not meet the training or certification
22 requirements of the manufacturer, distributor, distributor branch or
23 division, or factory or division branch but who is enrolled in a qualified
24 training curriculum to receive the requisite training or certification;

25 (ii) The manufacturer, distributor, distributor
26 branch or division, or factory or factory division or branch approves the
27 motor vehicle dealer's request in writing; and

28 (iii) The work is supervised by a service technician
29 with the required training or certification and the repair order is signed by
30 both the supervising technician and the motor vehicle dealer's service
31 department management.

32 (C) A manufacturer, distributor, distributor branch or
33 division, or factory or factory division or branch is not required to
34 consider a preapproval request to utilize an otherwise unqualified service
35 technician if:

36 (i) The proposed repair is related to a safety or

1 noncompliance recall;

2 (ii) The same repair has previously been attempted
3 one (1) or more times by any authorized motor vehicle dealer;

4 (iii) The repair is to be made on a high-performance
5 or alternative-technology vehicle; or

6 (iv) The requesting motor vehicle dealer's average
7 service customer satisfaction ratings are below the applicable national or
8 regional average for the same line make dealer.

9 (D) A motor vehicle dealer that utilizes an unqualified
10 service technician under this section shall not be entitled to additional
11 warranty repair labor time that is not authorized in the labor time guide of
12 the manufacturer, distributor, distributor branch or division, or factory or
13 factory division or branch.

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15 SECTION 4. Arkansas Code § 23-112-313(c)(3), concerning warranty
16 agreements, is amended to read as follows:

17 (3) The compensation of a motor vehicle dealer for warranty or
18 recall service shall not be less than the rates charged by the motor vehicle
19 dealer for like service to retail customers for nonwarranty service and
20 repairs, provided the rate is ~~reasonable compared~~ comparable to the rate of
21 other same line make dealers in the ~~motor vehicle dealer's relevant market~~
22 area in an economically similar area or the dealer's competitive market area.

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24 SECTION 5. Arkansas Code § 23-112-313(e)(3)(A), concerning disapproval
25 of a claim, is amended to read as follows:

26 (3)(A) A claim shall not be disapproved because a clerical error
27 was made that does not render the amount of the claim incorrect, including
28 without limitation clerical errors that occur as a result of a manufacturer
29 or distributor's prior approval process, ~~provided the dealer receives~~
30 ~~preapproval pursuant to the established practices of the manufacturer or~~
31 ~~distributor for these programs.~~

32
33 SECTION 6. Arkansas Code § 23-112-317(c), concerning motor vehicle
34 service and handling fee for preparing documents in connection with the sale
35 or lease of a new or used motor vehicle, is amended to add an additional
36 subdivision to read as follows:

(4) If a service and handling fee is charged under this section:

(A) A motor vehicle dealer may charge a purchaser of a motor vehicle a different service and handling fee if the purchaser utilizes:

(i) A manufacturer's sales plan or program; or

(ii) Financing through a finance company that caps a service and handling fee.

(B) The service and handling fee charged under this section shall be consistent with the service and handling fee authorized under:

(i) The manufacturer's sales plan or program;

(ii) The finance company policy; or

(iii) The laws of a foreign state with subject-matter jurisdiction.

SECTION 7. Arkansas Code § 23-112-403(a)(2)(B)(i)(a) and (b), concerning coercion of a motor vehicle dealer by a manufacturer, are amended to read as follows:

(a) To coerce or attempt to coerce ~~any a~~ motor vehicle dealer to enter into ~~any an~~ agreement with the manufacturer, distributor, distributor branch or division, factory branch or division, or officer, agent, or other representative ~~thereof; or~~

(b) To coerce or attempt to coerce a motor vehicle dealer to use a manufacturer vehicle purchase add-on product or service; or

(c) To do ~~any an other~~ act prejudicial to the motor vehicle dealer by threatening to cancel ~~any a~~ franchise or ~~any a~~ contractual agreement existing between the manufacturer, distributor, distributor branch or division, or factory branch or division and the motor vehicle dealer.

/s/B. Sample