

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1171

5 By: Representative Gonzales
6

For An Act To Be Entitled

8 AN ACT TO REPEAL THE LAW CONCERNING THE PROCEDURE
9 REQUIRED FOR THE ADDITION OR RELOCATION OF A NEW
10 MOTOR VEHICLE DEALER; AND FOR OTHER PURPOSES.
11

Subtitle

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13 TO REPEAL THE LAW CONCERNING THE
14 PROCEDURE REQUIRED FOR THE ADDITION OR
15 RELOCATION OF A NEW MOTOR VEHICLE DEALER.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 19-6-301(99), concerning special revenues
22 deposited into the State Treasury, is amended to read as follows:

23 (99) Arkansas Motor Vehicle Commission license fees, as enacted
24 by Acts 1975, No. 388, known as the "Arkansas Motor Vehicle Commission Act",
25 §§ 23-112-101 – 23-112-103, 23-112-105, 23-112-201 – 23-112-205, 23-112-301 –
26 ~~23-112-311~~ 23-112-310, 23-112-401 [repealed], 23-112-402 – 23-112-404, 23-
27 112-405 [repealed], 23-112-406, and 23-112-501 – 23-112-509;
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29 SECTION 2. Arkansas Code § 23-112-301(c)(3), concerning the license
30 required by a motor vehicle dealer and lessor, is amended to read as follows:

31 (3) New lease locations opened after a license is issued ~~shall~~
32 ~~be approved by the Arkansas Motor Vehicle Commission but~~ shall not require a
33 new license.
34

35 SECTION 3. Arkansas Code § 23-112-311 is repealed.

36 ~~23-112-311. Addition or relocation of new motor vehicle dealer.~~



1 ~~(a)(1) In all instances, when a manufacturer or distributor seeks to~~
2 ~~enter into a franchise establishing an additional new motor vehicle dealer or~~
3 ~~relocating an existing new motor vehicle dealer within or into a relevant~~
4 ~~market area where the same line make is then represented, the manufacturer or~~
5 ~~distributor shall in writing first notify the Arkansas Motor Vehicle~~
6 ~~Commission and each new motor vehicle dealer in that line make in the~~
7 ~~relevant market area of the intention to establish an additional dealer or to~~
8 ~~relocate an existing dealer within or into that market area.~~

9 ~~(2)(A) Within twenty (20) days of receiving the notice or within~~
10 ~~twenty (20) days after the end of any appeal procedure provided by the~~
11 ~~manufacturer or distributor, any new motor vehicle dealer may file with the~~
12 ~~commission to protest the establishing or relocating of the new motor vehicle~~
13 ~~dealer.~~

14 ~~(B) When a protest is filed, the commission shall inform~~
15 ~~the manufacturer or distributor that a timely protest has been filed and that~~
16 ~~the manufacturer or distributor shall not establish or relocate the proposed~~
17 ~~new motor vehicle dealer until the commission has held a hearing, nor~~
18 ~~thereafter if the commission has determined that there is good cause for not~~
19 ~~permitting the addition or relocation of the new motor vehicle dealer.~~

20 ~~(C) In the event that a protest is filed with the~~
21 ~~commission, the party desiring the addition or relocation of a new motor~~
22 ~~vehicle dealer pursuant to this subsection shall pay for and provide a copy~~
23 ~~of a survey showing the proposed location of the additional or relocated new~~
24 ~~motor vehicle dealer in relation to other existing dealers of the same line~~
25 ~~make in the relevant market area.~~

26 ~~(b) This section does not apply:~~

27 ~~(1) To the relocation of an existing new motor vehicle dealer,~~
28 ~~other than a new motor vehicle dealer of motorcycles, motorized cycles, and~~
29 ~~all-terrain vehicles, within that dealer's relevant market area, provided~~
30 ~~that the relocation not be at a site within ten (10) miles of a licensed new~~
31 ~~motor vehicle dealer for the same line make of motor vehicles;~~

32 ~~(2) If the proposed new motor vehicle dealer, other than a new~~
33 ~~motor vehicle dealer of motorcycles, motorized cycles, and all-terrain~~
34 ~~vehicles, is to be established at or within two (2) miles of a location at~~
35 ~~which a former licensed new motor vehicle dealer for the same line make of~~
36 ~~new motor vehicle has ceased operating within the previous two (2) years; or~~

1 ~~(3) To the relocation of an existing new motor vehicle dealer of~~
 2 ~~motorcycles, motorized cycles, and all terrain vehicles within that dealer's~~
 3 ~~relevant market area, provided that the relocation not be at a site within~~
 4 ~~twenty-five (25) miles of a licensed new motor vehicle dealer for the same~~
 5 ~~line make of motor vehicles.~~

6 ~~(c)(1) In determining whether good cause has been established for not~~
 7 ~~entering into a franchise establishing or relocating an additional new motor~~
 8 ~~vehicle dealer for the same line make, the commission shall take into~~
 9 ~~consideration the existing circumstances, including without limitation:~~

10 ~~(A) Permanency of the investment of both the existing and~~
 11 ~~proposed new motor vehicle dealers;~~

12 ~~(B) Growth or decline in population and new motor vehicle~~
 13 ~~registrations in the relevant market area;~~

14 ~~(C) Effect on the consuming public in the relevant market~~
 15 ~~area;~~

16 ~~(D) Whether it is injurious or beneficial to the public~~
 17 ~~welfare for an additional new motor vehicle dealer to be established;~~

18 ~~(E) Whether the new motor vehicle dealers of the same line~~
 19 ~~make in that relevant market area are providing adequate competition and~~
 20 ~~convenient customer care for the motor vehicles of the line make in the~~
 21 ~~market area, which shall include the adequacy of motor vehicle sales and~~
 22 ~~service facilities, equipment, supply of motor vehicle parts, and qualified~~
 23 ~~service personnel; and~~

24 ~~(F) Whether the establishment of an additional new motor~~
 25 ~~vehicle dealer would increase competition and, therefore, be in the public~~
 26 ~~interest.~~

27 ~~(2) In determining whether good cause has been established for~~
 28 ~~not entering into a franchise establishing or relocating an additional new~~
 29 ~~motor vehicle dealer for the same line make, the burden of proof is on the~~
 30 ~~manufacturer or distributor to show it has good cause for granting the new~~
 31 ~~franchise, except when an existing franchisee initiated the relocation.~~

32 ~~(d)(1) The commission shall conduct the hearing and render its final~~
 33 ~~determination within one hundred eighty (180) days after a protest is filed.~~

34 ~~(2) Unless waived by the parties, failure to do so shall be~~
 35 ~~deemed the equivalent of a determination that good cause does not exist for~~
 36 ~~refusing to permit the proposed additional or relocated new motor vehicle~~

1 ~~dealer, unless the delay is caused by acts of the manufacturer or distributor~~
2 ~~or the relocating or additional dealer.~~

3 ~~(c) Any parties to a hearing by the commission concerning the~~
4 ~~establishing or relocating of a new motor vehicle dealer shall have a right~~
5 ~~of review of the decision in a court of competent jurisdiction pursuant to~~
6 ~~the Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

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