

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023

A Bill

HOUSE BILL 1751

4
5 By: Representative M. Brown
6 By: Senator M. Johnson

For An Act To Be Entitled

9 AN ACT CONCERNING DECEPTIVE TRADE PRACTICES; TO
10 CREATE THE ARKANSAS AUTOMOTIVE SUBSCRIPTIONS CONSUMER
11 PROTECTION ACT; AND FOR OTHER PURPOSES.

Subtitle

15 CONCERNING DECEPTIVE TRADE PRACTICES; AND
16 TO CREATE THE ARKANSAS AUTOMOTIVE
17 SUBSCRIPTIONS CONSUMER PROTECTION ACT.

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

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22 SECTION 1. DO NOT CODIFY. Legislative findings and intent.

23 (a) The General Assembly finds that:

24 (1) Certain motor vehicle manufacturers have indicated their
25 intent to begin charging consumers a subscription or other ongoing fee in
26 order for consumers to be able to use certain motor vehicle features that are
27 paid for by the consumers at the time of purchase but which do not require
28 any ongoing expense to or maintenance by the motor vehicle manufacturer in
29 order to function after purchase, including without limitation heated seats,
30 fob-based key remote start systems, and other similar features, and to
31 disable such features unless the subscriptions or other fees are paid; and

32 (2) The motivation for charging consumers fees is to extract the
33 maximum profit from consumers while providing no additional value or service
34 to such consumer.

35 (b) It is the intent of this act to establish that the actions of
36 certain motor vehicle manufacturers that threaten to disable these motor



1 vehicle features on motor vehicles of Arkansas consumers constitutes an
 2 unfair trade practice.

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 4 SECTION 2. Arkansas Code Title 4, Chapter 88, is amended to add an
 5 additional subchapter to read as follows:

6 Subchapter 11 – Arkansas Automotive Subscriptions Consumer Protection Act

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 8 4-88-1101. Title.

9 This subchapter shall be known and may be cited as the "Arkansas
 10 Automotive Subscriptions Consumer Protection Act".

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 12 4-88-1102. Definitions.

13 As used in this subchapter:

14 (1) "Manufacturer" means a person or business engaged in the
 15 manufacturing or assembling of a new motor vehicle;

16 (2) "Motor vehicle" means the same as defined in § 27-14-104;

17 (3) "Motor vehicle feature" means any convenience or safety
 18 function, feature, or accessory included on a motor vehicle at the time of
 19 purchase, including without limitation heated seats and fob-based key remote
 20 start systems; and

21 (4) "Subscription" means a recurring payment, including without
 22 limitation a weekly, monthly, or annual payment charged to and made by a
 23 consumer.

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 25 4-88-1103. Certain subscriptions unlawful.

26 (a) A motor vehicle manufacturer shall not charge, whether directly,
 27 through a related or subsidiary entity, or through a third-party service
 28 provider, any consumer a subscription as a condition of being able to use any
 29 motor vehicle feature that:

30 (1) Utilizes components and hardware already installed on the
 31 motor vehicle and paid for by the consumer at the time of purchase; and

32 (2) Would continue to function after the time of purchase
 33 without any ongoing expense to the manufacturer or any third-party service
 34 provider.

35 (b) This subchapter shall not be construed to prohibit a motor vehicle
 36 manufacturer from charging a subscription for a motor vehicle feature that

1 requires an ongoing expense to the motor vehicle manufacturer or a third-
2 party service provider in order to continue to function after purchase,
3 including without limitation satellite radios, internet services, and
4 roadside assistance services.

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6 4-88-1104. Penalties – Enforcement.

7 (a)(1) A violation of this subchapter shall constitute an unfair and
8 deceptive act or practice under § 4-88-107.

9 (2) All remedies, penalties, and authority granted to the
10 Attorney General under the Deceptive Trade Practices Act, § 4-88-101 et seq.,
11 or this subchapter shall be available to the Attorney General for the
12 enforcement of this subchapter.

13 (b) A prosecuting attorney of any of the districts and counties of
14 this state shall have the authority to enforce this subchapter.

15 (c) This subchapter shall not prohibit an individual harmed by the
16 deceptive trade practice from bringing a civil action against a motor vehicle
17 manufacturer for violating this subchapter.

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19 4-88-1105. Civil action.

20 (a) A civil action may be filed by an individual who is charged a
21 subscription in violation of this subchapter.

22 (b) In a civil action under subsection (a) of this section, an
23 individual who is charged a subscription in violation of this subchapter may
24 elect to recover from the entity charging the subscription:

25 (1) The actual financial loss proximately caused by the offense
26 or violation, including the amount of all subscriptions charged to the person
27 in violation of this subchapter and paid by the person; or

28 (2) A penalty of one thousand dollars (\$1,000) per violation.

29 (c) A prevailing party in any action brought under subdivision (a) of
30 this section shall be awarded costs and reasonable attorney's fees.

31 (d) An action brought under this subchapter shall not be subject to
32 the prohibition against class action lawsuits contained in § 4-88-113.

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