

1 State of Arkansas  
2 84th General Assembly  
3 Second Extraordinary Session, 2003  
4

*As Engrossed: H12/23/03*  
**A Bill**

Call Item 19

HOUSE BILL 1027

5 By: Representative Petrus  
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**For An Act To Be Entitled**

9 AN ACT TO REVISE VARIOUS PROVISIONS OF THE  
10 ARKANSAS MOTOR VEHICLE COMMISSION ACT FOR  
11 ENFORCEMENT, WARRANTY AGREEMENTS, AND UNLAWFUL  
12 ACTIVITIES FOR MANUFACTURERS; AND FOR OTHER  
13 PURPOSES.  
14

**Subtitle**

15 TO REVISE VARIOUS PROVISIONS OF THE  
16 ARKANSAS MOTOR VEHICLE COMMISSION 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. Arkansas Code Title 23, Chapter 112, Subchapter 1 is*  
23 *amended to add an additional section to read as follows:*

24 *23-112-106. Enforcement.*

25 *(a)(1) The Arkansas Motor Vehicle Commission may enter orders that*  
26 *direct and command compliance with this chapter and regulations under this*  
27 *chapter if any of the following conditions have been met:*

28 *(A) The commission has conducted a hearing within sixty*  
29 *(60) days on the matter;*

30 *(B) The commission has made written findings that the*  
31 *public interest and welfare require the person or entity against whom the*  
32 *commission is acting to take the specified action;*

33 *(C) The commission finds that the current civil or*  
34 *administrative penalties are insufficient; or*

35 *(D) The failure of the commission to issue the order would*  
36 *be detrimental to the public interest or welfare.*



1           (2) The commission may enforce its findings and conclusions upon  
2 entry of an order under this subsection (a).

3           (b) The commission shall have the power to enforce the prohibitions  
4 contained in the Arkansas Motor Vehicle Commission Act, § 23-112-101 et seq.,  
5 and rules promulgated under this chapter through the imposition of fines and  
6 penalties, the issuance of cease and desist orders, and other remedies that  
7 are provided by law.

8           (c) Regarding all orders issued under subsection (b) of this section,  
9 the following procedures shall apply:

10           (1) Upon finding that any action of a person or entity is  
11 violating this chapter, the commission or its designee may order the person  
12 to cease and desist from the prohibited action;

13           (2) Upon entering the order under subdivision (c)(1) of this  
14 section, the commission or its designee shall promptly notify the person or  
15 entity that the order has been entered and shall state the reasons for the  
16 order;

17           (3) The person may contest the cease and desist order by  
18 delivering a written request for a hearing to the commission within three (3)  
19 days from the date on which the person receives notice of the order;

20           (4)(A) If the commission receives a timely written request for a  
21 hearing, the commission shall schedule a hearing to be held within thirty  
22 (30) days after receipt of the request.

23           (B) The commission may otherwise determine that a hearing  
24 is necessary and order a hearing within thirty (30) days after the order  
25 under subdivision (c)(1) of this section is issued;

26           (5) If the person does not request a hearing or the commission  
27 does not order a hearing, the order issued under subdivision (c)(1) of this  
28 sections shall remain in effect until it is modified or vacated by the  
29 commission; and

30           (6) If a hearing is requested or ordered, after notice of and  
31 opportunity for a hearing, the commission may take the following actions on  
32 orders issued under subdivision (c)(1) of this section:

33           (A) Modify the order;

34           (B) Vacate the order; or

35           (C) Make the order permanent.

36           (d)(1) A person shall be subject to a civil penalty of up to two

1 thousand five hundred dollars (\$2,500) for each violation of the commission's  
2 cease and desist order committed after entry of the cease and desist order  
3 if:

4 (A)(i) The person or entity subject to the cease and  
5 desist order fails to appeal the order in accordance with this section; or

6 (ii) The person appeals and the appeal is denied or  
7 dismissed; or

8 (B) The person continues to engage in the prohibited  
9 action in violation of the commission's order.

10 (2) In addition to the civil penalty under this section, the  
11 commission may impose a civil penalty as provided under § 23-112-314.

12 (3) The penalties of this section apply in addition to, but not  
13 in lieu of, any other provision of law applicable to a person or entity for  
14 his or her failure to comply with an order of the commission.

15 (e) The orders of the commission shall be subject to a person's right  
16 to appeal.

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18 /s/ Petrus  
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