

1 State of Arkansas  
2 95th General Assembly  
3 Regular Session, 2025  
4

# A Bill

HOUSE BILL 1989

5 By: Representative Cavanaugh  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING USED MOTOR  
10 VEHICLES BUYERS PROTECTION; TO AMEND THE LAW  
11 CONCERNING THE APPLICATION PROCESS FOR A WHOLESALE  
12 USED MOTOR VEHICLE DEALER’S LICENSE OR RETAIL USED  
13 MOTOR VEHICLE DEALER’S LICENSE; AND FOR OTHER  
14 PURPOSES.  
15  
16

## Subtitle

17  
18 TO AMEND THE LAW CONCERNING USED MOTOR  
19 VEHICLES BUYERS PROTECTION; AND TO AMEND  
20 THE LAW CONCERNING THE USED MOTOR  
21 VEHICLE DEALER’S LICENSE APPLICATION  
22 PROCESS.  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code § 23-112-601 is amended to read as follows:

27 23-112-601. Necessity for regulation – Legislative findings –  
28 Legislative declaration.

29 (a) The General Assembly declares that the public interest is affected  
30 by the sale and distribution of used motor vehicles, and it is recognized  
31 that a significant factor of the inducement in making a sale of a used motor  
32 vehicle to a member of the general public is the trust and confidence of the  
33 purchaser in the retail used motor vehicle dealer or wholesale used motor  
34 vehicle dealer from whom the purchase is made, with the expectancy that the  
35 dealer will remain in business to stand behind and provide service for the  
36 motor vehicle purchased.



1 (b) It is therefore found to be necessary to license retail used motor  
 2 vehicle dealers and wholesale used motor vehicle dealers and to prohibit  
 3 certain acts and set penalties for violations and perpetration of certain  
 4 acts by retail used motor vehicle dealers and wholesale used motor vehicle  
 5 dealers who are not licensed as new motor vehicle dealers selling used cars  
 6 incidental to their new motor vehicle dealership operations, salespersons,  
 7 agents, representatives, and employees of retail used motor vehicle dealers  
 8 and wholesale used motor vehicle dealers in order to:

9 (1) Prevent fraud, improper impositions, and other abuses upon  
 10 the citizens of this state;

11 (2) Protect and preserve the investments and properties of the  
 12 citizens of this state; and

13 (3) Foster and keep alive vigorous and healthy competition by  
 14 prohibiting unfair practices by which fair and honest competition is  
 15 destroyed or prevented.

16  
 17 SECTION 2. Arkansas Code § 23-112-602(1)-(4), concerning the  
 18 definitions related to used motor vehicle buyers protection, are amended to  
 19 read as follows:

20 (1)(A) "Auto auction" means any person who operates or provides  
 21 a place of business or facilities for the wholesale exchange of motor  
 22 vehicles by and between duly licensed motor vehicle dealers, or from retail  
 23 used motor vehicle dealers and wholesale used motor vehicle dealers to  
 24 individuals, or individuals to retail used motor vehicle dealers and  
 25 wholesale used motor vehicle dealers, or any combination thereof, or any  
 26 motor vehicle dealer licensed to sell used motor vehicles, selling used motor  
 27 vehicles using an auction format or on consignment.

28 (B) "Auto auction" also applies to any person who provides  
 29 the facilities for or is in the business of selling motor vehicles in an  
 30 auction format;

31 (2) "Designee" means a person or entity that:

32 (A) Agrees to perform inspections of retail used motor  
 33 vehicle dealers and wholesale used motor vehicle dealers under this  
 34 subchapter on behalf of the ~~department~~ Division of Arkansas State Police; and

35 (B) The ~~department~~ division determines is appropriately  
 36 suited for serving as a designee under this subchapter;

1           (3) "Drafter" means any person who obtains financing for the  
2 purchase and resale of vehicles of another person or a retail used motor  
3 vehicle dealer or wholesale used motor vehicle dealer through the use of the  
4 account of or based on the extension of credit by presenting at the time of  
5 purchase of the subject vehicles a documentary draft for purchase of the  
6 vehicle or who otherwise promises to pay through the accounts or credit of  
7 another person or a retail used motor vehicle dealer or wholesale used motor  
8 vehicle dealer;

9           (4) "Licensed location" means the address designated as the  
10 business address of the used motor vehicle dealer on his or her application  
11 for a retail used motor vehicle dealer's license or a wholesale used motor  
12 vehicle dealer's license;

13  
14           SECTION 3. Arkansas Code § 23-112-602(7), concerning the definitions  
15 related to used motor vehicle buyers protection, is amended to read as  
16 follows:

17           (7) "Person" means and includes, individually and collectively,  
18 individuals, firms, partnerships, associations, corporations, trusts, or any  
19 other form of business, individual enterprise, company, or entity;

20  
21           SECTION 4. Arkansas Code § 23-112-602(10)(A)(i), concerning the  
22 definitions related to used motor vehicle buyers protection, is amended to  
23 read as follows:

24           (10)(A)(i) "Used motor vehicle dealer", ~~hereinafter referred to~~  
25 ~~as or~~ retailer, means any person, retailer, wholesaler, or auto auction who,  
26 for a commission or with intent to make a profit or gain of money or other  
27 thing of value, sells, brokers, exchanges, rents, or leases with the option  
28 to purchase or own, or attempts to negotiate a sale or exchange of an  
29 interest in any used motor vehicle, or who is wholly or in part in the  
30 business of buying, selling, trading, or exchanging used motor vehicles,  
31 whether or not such motor vehicles are owned by the person.

32  
33           SECTION 5. Arkansas Code § 23-112-602(11) and (12), concerning the  
34 definitions related to used motor vehicle buyers protection, are amended to  
35 read as follows:

36           (11) "Used motor vehicle salesperson", hereinafter referred to

1 as "salesperson", is anyone who for compensation of any kind operates as a  
 2 salesperson, broker, agent, or representative of a retail used motor vehicle  
 3 dealer or wholesale used motor vehicle dealer, or any person who attempts to  
 4 or in fact negotiates a sale of a vehicle owned partially or entirely by a  
 5 retail used motor vehicle dealers or wholesale used motor vehicle dealer, or  
 6 a person or drafter using the financial resources, line of credit, or floor  
 7 plan of a retail used motor vehicle dealer or wholesale used motor vehicle  
 8 dealer to purchase, sell, or exchange an interest in a used motor vehicle;  
 9 and

10 (12)(A) "Wholesaler" or "wholesale used motor vehicle dealer"  
 11 means any person, resident or nonresident, who, in whole or in part,  
 12 primarily sells used motor vehicles to motor vehicle dealers.

13 (B) ~~Used~~ Retail used motor vehicle dealers who, incidental  
 14 to their primary business, sell motor vehicles to other retail used motor  
 15 vehicle dealers and wholesale used motor vehicle dealers are not considered  
 16 wholesalers because of their incidental sales.

17  
 18 SECTION 6. Arkansas Code § 23-112-602, concerning the definitions  
 19 related to used motor vehicle buyers protection, is amended to add additional  
 20 subdivisions to read as follows:

21 (13) "Convicted" means that a person plead guilty or nolo  
 22 contendere to or was found guilty of a criminal offense, including a  
 23 conviction that has been sealed or expunged; and

24 (14) "Retail used motor vehicle dealer" means a person who sells  
 25 used motor vehicles to the public.

26  
 27 SECTION 7. Arkansas Code § 23-112-603(a)(3) and (4), concerning the  
 28 penalties for a violation of the law concerning used motor vehicle buyers  
 29 protection, are amended to read as follows:

30 (3) A third or subsequent violation is a Class D felony, and the  
 31 retail used motor vehicle dealer's or wholesale used motor vehicle dealer's  
 32 license shall be suspended for three (3) years for each respective third or  
 33 subsequent violation; and

34 (4)(A) In addition to or instead of the penalties listed under  
 35 subdivisions (a)(1)-(3) of this section, the Director of the Division of  
 36 Arkansas State Police may issue a fine in an amount not to exceed one

1 thousand dollars (\$1,000) for each violation of this subchapter.

2 (B) The fines collected under subdivision (a)(4)(A) of  
3 this section shall be remitted to the Division of Arkansas State Police and  
4 shall be deposited into the State Treasury to the credit of the Division of  
5 Arkansas State Police Fund.

6  
7 SECTION 8. Arkansas Code § 23-112-603(b), concerning the penalties for  
8 a violation of the law concerning used motor vehicle buyers protection, is  
9 amended to read as follows:

10 (b) Any person found guilty of selling a used motor vehicle as a  
11 dealer or salesperson while his or her retail used motor vehicle dealer's or  
12 salesperson's license or wholesale used motor vehicle dealer's or  
13 salesperson's license is suspended or revoked shall be guilty of a Class C  
14 felony.

15  
16 SECTION 9. Arkansas Code § 23-112-603(d), concerning the penalties for  
17 a violation of the law concerning used motor vehicle buyers protection, is  
18 amended to read as follows:

19 (d)(1) A retail used motor vehicle dealer or wholesale used motor  
20 vehicle dealer licensed under this subchapter shall maintain a licensed  
21 location.

22 (2) When a retail used motor vehicle dealer or wholesale used  
23 motor vehicle dealer changes or moves his or her licensed location, within  
24 fifteen (15) calendar days of the relocation, the retail used motor vehicle  
25 dealer or wholesale used motor vehicle dealer shall notify the division in  
26 writing of the dealership name, the previous location, and the new location.

27 (3)(A) If the division determines that the ~~used motor vehicle~~  
28 ~~dealer's~~ business location of the retail used motor vehicle dealer or  
29 wholesale used motor vehicle dealer has moved and notification to the  
30 division has not been properly made, the division shall levy a fine equal to  
31 the amount of the license fee.

32 (B) The fine collected pursuant to subdivision (d)(3)(A)  
33 of this section shall be remitted to the division and shall be deposited into  
34 the State Treasury as special revenue to the credit of the division.

35  
36 SECTION 10. Arkansas Code §§ 23-112-604 through 23-112-607 are amended

1 to read as follows:

2 23-112-604. Powers generally.

3 (a) The ~~Department~~ Division of Arkansas State Police may promulgate  
 4 rules that are necessary to implement, enforce, and administer this  
 5 subchapter.

6 (b) The ~~department~~ division may cancel a dealer's license if the  
 7 retail used motor vehicle dealer or wholesale used motor vehicle dealer:

8 (1) Fails to keep and maintain the requirements ~~of § 23-112-~~  
 9 ~~607(a) and (c)~~ of this subchapter; or

10 (2) Pleads guilty or nolo contendere to or has been found guilty  
 11 of a violation of § 23-112-605.

12  
 13 23-112-605. Violations.

14 It shall be a violation of this subchapter to knowingly or  
 15 intentionally:

16 (1)(A) Sell a vehicle without a retail used motor vehicle  
 17 dealer's license or wholesale used motor vehicle dealer's license.

18 (B) The sale of each vehicle shall constitute a separate  
 19 offense;

20 (2) Commit a fraudulent act in selling, purchasing, or otherwise  
 21 dealing in motor vehicles;

22 (3) Fail to maintain the conditions and requirements necessary  
 23 to qualify for the issuance of a retail used motor vehicle dealer's license  
 24 or wholesale used motor vehicle dealer's license;

25 (4) Sell, attempt to sell, or advertise for sale vehicles from a  
 26 location other than that set forth on the retail used motor vehicle dealer's  
 27 license or wholesale used motor vehicle dealer's license, except:

28 (A) As a participating dealer in a state trade association  
 29 promotion or exhibit; or

30 (B) ~~With a special sale permit; or~~

31 ~~(C)~~ At an auto auction;

32 (5) Falsify, alter, or neglect to endorse or deliver a  
 33 certificate of title to a transferee or lawful owner, or fail to properly  
 34 designate a transferee on a document of assignment or certificate of title;

35 (6) Knowingly purchase, sell, or otherwise acquire or dispose of  
 36 a stolen motor vehicle;

1 (7) Submit a false affidavit setting forth that a title has been  
 2 lost or destroyed;

3 (8) Pass title or reassign title as a retail used motor vehicle  
 4 dealer or wholesale used motor vehicle dealer without a retail used motor  
 5 vehicle dealer's license or wholesale used motor vehicle dealer's license or  
 6 when his or her retail used motor vehicle dealer's license or wholesale used  
 7 motor vehicle dealer's license has been suspended;

8 (9) To represent oneself as a retail used motor vehicle dealer  
 9 or wholesale used motor vehicle dealer or as a salesperson, either verbally  
 10 or in any advertisement, when not licensed as such;

11 (10) Violate any provision or requirement in this subchapter; ~~or~~

12 (11) Knowingly assist an unlicensed retail used motor vehicle  
 13 dealer or wholesale used motor vehicle dealer in the sale of a motor  
 14 vehicle-; or

15 (12) Misuse a:

16 (A) Dealer's master plate or dealer's extra license plate  
 17 under § 27-14-1704;

18 (B) Transporter plate under § 27-14-1806; or

19 (C) Wholesale used motor vehicle dealer master plate,  
 20 wholesale used motor vehicle extra dealer plate, or wholesale used motor  
 21 vehicle dealer transporter plate under § 23-112-623.

22  
 23 23-112-606. License required.

24 It shall be unlawful for any person to engage in business as a retail  
 25 used motor vehicle dealer or wholesale used motor vehicle dealer or to sell a  
 26 vehicle not his or her own without obtaining a retail used motor vehicle  
 27 dealer's license or wholesale used motor vehicle dealer's license, except  
 28 that a person defined as a salesperson in § 23-112-602 may act on behalf of  
 29 the dealer by whom such a person is employed.

30  
 31 23-112-607. Dealer's license.

32 (a)(1) Persons wishing to obtain a retail used motor vehicle dealer's  
 33 license or wholesale used motor vehicle dealer's license shall submit a fully  
 34 executed application on such retail used motor vehicle dealer's license or  
 35 wholesale used motor vehicle dealer application forms as may be prescribed by  
 36 the ~~Department~~ Division of Arkansas State Police.

1 (2) The application shall be verified by the oath or affirmation  
2 of the applicant.

3 (b)(1) ~~An applicant for a used motor vehicle dealer's license or a A~~  
4 licensee seeking to renew a retail used motor vehicle dealer's license or  
5 wholesale used motor vehicle dealer's license shall establish that he or she  
6 has sold at least five (5) ten (10) used motor vehicles during the previous  
7 calendar year.

8 (2) A licensee shall possess and present valid and signed copies  
9 of certificates of title and bills of sale upon a random audit or yearly  
10 renewal inspection by the division.

11 (c) ~~The department~~ In addition to an application for a retail used  
12 motor vehicle dealer's license or a wholesale used motor vehicle dealer's  
13 license, the division shall require in relation to the application the  
14 following information and verification prior to issuing a retail used motor  
15 vehicle dealer's license certificate or wholesale used motor vehicle dealer's  
16 license certificate:

17 (1) A photograph of the business location;

18 (2) A Proof that the applicant possesses a corporate surety bond  
19 in the sum of at least ~~twenty-five thousand dollars (\$25,000)~~ fifty thousand  
20 dollars (\$50,000);

21 (3) Proof of liability insurance coverage on all vehicles to be  
22 offered for sale in an amount equal to or greater than the amount required by  
23 the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.;

24 (4) A list of the persons or entities having any ownership  
25 interest in the used vehicle dealership;

26 (5) A list of managers or salespersons to be employed;

27 (6) ~~That~~ Evidence that the applicant has ~~a bona fide an~~  
28 established place of business used primarily for the sale of used motor  
29 vehicles that:

30 (A) Includes an enclosed building or structure; and

31 (B) Is owned, rented, or leased by the applicant and is  
32 occupied and used primarily for the sale of used motor vehicles;

33 (7) ~~That~~ Evidence that the applicant has a telephone number  
34 listed in the name of the business in an online directory;

35 (8) ~~That~~ A photograph demonstrating that the applicant has ~~a an~~  
36 exterior sign that: identifying



1                   (A) Identifies the establishment as a used motor vehicle  
2 dealership; and

3                   (B) Is legible from the street, road, or highway, ~~and a~~  
4 ~~picture thereof;~~

5                   (9) ~~That~~ Evidence that the applicant has an office space  
6 dedicated to the business that contains a filing cabinet or other repository  
7 adequate to secure the business records of the establishment under lock and  
8 key or combination;

9                   (10) ~~Whether~~ A disclosure as to whether the applicant has ever:

10                   (A) ~~been~~ Been issued a retail motor vehicle dealer's  
11 license or wholesale motor vehicle dealer's license; and

12                   (B) ~~if the applicant has ever had~~ Had a retail motor  
13 vehicle dealer's license or wholesale motor vehicle dealer's license  
14 suspended or revoked;

15                   (11)(A) ~~Except as provided in subdivision (c)(11)(B) of this~~  
16 ~~section, an~~ An affidavit from a ~~department~~ division officer or a designee of  
17 the ~~department~~ division stating that the officer or a designee of the  
18 ~~department~~ division has inspected the facility within ~~thirty (30)~~ sixty (60)  
19 days before issuance or renewal of a license and found it to be in compliance  
20 with the requirements for application.

21                   (B) ~~If a licensee has been continuously licensed at the~~  
22 ~~same facility for ten (10) years or more, then the licensee shall only be~~  
23 ~~required to comply with subdivision (c)(11)(A) of this section one (1) time~~  
24 ~~every other year; and~~ The owner of the facility being inspected under  
25 subdivision (c)(11)(A) of this section or the owner's designated power of  
26 attorney shall be present for the inspection before the issuance or renewal  
27 of a license;

28                   (12) The name, address, and telephone number of the person  
29 designated to receive legal process in the event of the commencement of any  
30 legal action in any court against the applicant;

31                   (13) A copy of a valid driver's license for each owner, partner,  
32 manager, and salesperson listed on the application; and

33                   (14)(A)(i) A criminal record check conducted at the time of  
34 issuance or renewal of a license of each owner, partner, manager, and  
35 salesperson by the division and the Federal Bureau of Investigation.

36                   (ii) Criminal history records from the Arkansas

1 Crime Information Center shall be available to the Director of the Division  
2 of Arkansas State Police for the review of an applicant.

3 (B) The state and national criminal background check  
4 required under this subdivision (c)(14) shall:

5 (i) Conform to applicable federal standards; and

6 (ii) Include the taking of fingerprints.

7 (C) The applicant shall:

8 (i) Sign a release of information to the director;  
9 and

10 (ii) Pay any fee associated with the state and  
11 national criminal background check.

12 (D) Upon completion of the state and national criminal  
13 background check required under this subdivision (c)(14), the division shall  
14 forward to the director all releasable information obtained concerning the  
15 applicant.

16 (E)(i) The division shall not issue a new license to a  
17 person who has been found guilty of a Class Y, Class A, or Class B felony,  
18 including a sealed or expunged offense, in any court in the state or a  
19 comparable offense in another state or in a military or federal court for  
20 which a pardon has not been granted.

21 (ii) An applicant who has been found guilty of a  
22 Class D or Class C felony shall be disqualified for a period of ten (10)  
23 years from the date of adjudication.

24 (F) The director may deny, suspend, or revoke a retail  
25 used motor vehicle dealer's license or a wholesale used motor vehicle  
26 dealer's license for an arrest or indictment of a felony listed under  
27 subdivision (c)(14)(E) of this section.

28 (G) The division shall promulgate rules to implement and  
29 administer this subdivision (c)(14).

30 (H)(i) A holder of a current and valid retail used motor  
31 vehicle dealer's license or wholesale used motor vehicle dealer's license who  
32 possesses a license before the effective date of this act is exempt from  
33 disqualification under subdivision (c)(14)(E) of this section for a felony  
34 conviction before the effective date of this act.

35 (ii) A holder of a current and valid retail motor  
36 vehicle dealer's license or wholesale used motor vehicle dealer's license who

1 possesses a license before the effective date of this act shall be  
2 disqualified for a felony arrest or conviction that occurs after the  
3 effective date of this act.

4 (d)(1)(A) Each applicant shall obtain a corporate surety bond in the  
5 penal sum of ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars  
6 (\$50,000) on a bond form approved by the state.

7 (B) However, an applicant for a license at multiple  
8 locations may provide a corporate surety bond in the penal sum of ~~one hundred~~  
9 ~~thousand dollars (\$100,000)~~ two hundred thousand dollars (\$200,000) covering  
10 all licensed locations in lieu of separate bonds for each individual  
11 location.

12 (2) The bond shall be an indemnity for any loss and reasonable  
13 attorney's fees sustained by a retail buyer by reason of the acts of the  
14 person bonded when such an act constitutes a violation of this law.

15 (3) However, the surety shall in no event be liable for more  
16 than ~~twenty five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000).

17 (4) The bond shall be executed in the name of the State of  
18 Arkansas or any aggrieved party.

19 (5) The proceeds of the bonds shall be paid either to the State  
20 of Arkansas or to the retail buyer upon a judgment from an Arkansas court of  
21 competent jurisdiction against the principal and in favor of the aggrieved  
22 party or the State of Arkansas.

23 (6) However, the surety shall in no event be required to pay any  
24 judgment obtained by fraud or collusion, as between the dealer and the retail  
25 buyer, or which was rendered against a person bonded for an act that does not  
26 constitute a violation of this subchapter. These defenses may be raised at  
27 any time, subject to the applicable statute of limitations.

28  
29 SECTION 11. Arkansas Code § 23-112-611(a), concerning records that a  
30 used motor vehicle dealer must maintain, is amended to read as follows:

31 (a)(1) Every person required to have a license shall maintain, for  
32 three (3) years from the date of purchase, records of each vehicle  
33 transaction to which the person was a party.

34 (2) Records maintained under subdivision (a)(1) of this section  
35 shall be maintained at the business location listed on the license of the  
36 person required to maintain the records.

1  
2 SECTION 12. Arkansas Code § 23-112-613 is amended to read as follows:

3 23-112-613. Delivery prior to sale – Disclosures – Definitions.

4 (a) As used in this section:

5 (1)(A) “Contract for sale” means the final agreement between a  
6 retail used motor vehicle dealer or wholesale used motor vehicle dealer and a  
7 consumer that:

8 (i) Includes all material terms of the sale of a  
9 motor vehicle; and

10 (ii) Is binding upon the seller, the buyer, and any  
11 necessary third-party financier.

12 (B) “Contract for sale” includes a financing agreement and  
13 all material financing terms if the motor vehicle is to be financed; and

14 (2) “Delivery prior to sale” means a delivery of a motor vehicle  
15 by a retail used motor vehicle dealer or wholesale used motor vehicle dealer  
16 to a consumer prior to the completion and execution by both parties of a  
17 contract for sale.

18 (b) If a retail used motor vehicle dealer or wholesale used motor  
19 vehicle dealer engages in a delivery prior to sale, then the retail used  
20 motor vehicle dealer or wholesale used motor vehicle dealer shall provide the  
21 consumer with an agreement for delivery prior to sale at the time of delivery  
22 of the motor vehicle to the consumer.

23 (c)(1) The agreement for delivery prior to sale shall be:

24 (A) Printed in at least 12-point type; and

25 (B) Signed by the consumer and the retail used motor  
26 vehicle dealer or wholesale used motor vehicle dealer or the dealer’s  
27 representative.

28 (2) The agreement for delivery prior to sale shall not be  
29 considered a contract for sale.

30 (d) The agreement for delivery prior to sale shall include all of the  
31 following terms:

32 (1) Unless the consumer is approved for financing and both  
33 parties have executed a contract for sale, then the retail used motor vehicle  
34 dealer or wholesale used motor vehicle dealer shall not:

35 (A) Deposit or cash any down payment provided by the  
36 consumer; and

1 (B) Sell any motor vehicle that is presented by the  
2 consumer as a trade-in;

3 (2) The consumer retains the right to cancel the purchase of a  
4 motor vehicle if:

5 (A) The retail used motor vehicle dealer or wholesale used  
6 motor vehicle dealer changes any terms; or

7 (B) The consumer fails to obtain financing that meets the  
8 agreed-upon interest rate;

9 (3) If a consumer who executes an agreement for delivery prior  
10 to sale chooses not to execute a contract for sale or otherwise cancels the  
11 purchase as provided under this section, then:

12 (A) The retail used motor vehicle dealer or wholesale used  
13 motor vehicle dealer shall not:

14 (i) Impose any charge or penalty against the  
15 consumer; or

16 (ii) Deposit or cash any down payment provided by  
17 the consumer; and

18 (B) The retail used motor vehicle dealer or wholesale used  
19 motor vehicle dealer shall immediately return any motor vehicle that was  
20 presented by the consumer as a trade-in; and

21 (4) If the consumer decides not to purchase the motor vehicle,  
22 the consumer shall return the motor vehicle to the retail used motor vehicle  
23 dealer or wholesale used motor vehicle dealer within forty-eight (48) hours  
24 after the consumer notifies the retail used motor vehicle dealer or wholesale  
25 used motor vehicle dealer.

26 (e) If a consumer fails to return a motor vehicle pursuant to  
27 subdivision (d)(4) of this section, then the retail used motor vehicle dealer  
28 or wholesale used motor vehicle dealer may recover the vehicle without the  
29 necessity of judicial process if the recovery is possible without committing  
30 an act of breaking or entering or breach of the peace.

31 (f) The Division of Arkansas State Police shall promulgate rules to  
32 implement, enforce, and administer this section.

33  
34 SECTION 13. Arkansas Code § 23-112-617(a)-(c), concerning used motor  
35 vehicle dealer service and handling fees, are amended to read as follows:

36 (a) A retail used motor vehicle dealer or wholesale used motor vehicle

1 dealer may fill in the blanks on standardized forms in connection with the  
2 sale or lease of used motor vehicles if the motor vehicle dealer does not  
3 charge for the service of filling in the blanks or otherwise charge for  
4 preparing documents.

5 (b)(1) A retail used motor vehicle dealer or wholesale used motor  
6 vehicle dealer may charge a service and handling fee in connection with the  
7 sale or lease of a used motor vehicle for:

8 (A) The handling, processing, and storage of documents;  
9 and

10 (B) Other administrative and clerical services.

11 (2)(A) The service and handling fee may be charged to allow cost  
12 recovery for retail used motor vehicle dealer or wholesale used motor vehicle  
13 dealers.

14 (B) A portion of the service and handling fee may result  
15 in profit to the used motor vehicle dealer.

16 (c)(1)(A) The ~~Department~~ Division of Arkansas State Police shall  
17 determine by rule the amount of the service and handling fee that may be  
18 charged by a retail used motor vehicle dealer or wholesale used motor vehicle  
19 dealer. (B) The service and handling fee shall be no less  
20 than zero dollars (\$0.00) and no more than one hundred twenty-nine dollars  
21 (\$129).

22 (2) If a service and handling fee is charged under this section,  
23 the service and handling fee shall be:

24 (A) Charged to all retail customers; and

25 (B) Disclosed on the retail buyer's order form as a  
26 separate itemized charge.

27  
28 SECTION 14. Arkansas Code § 23-112-617(e), concerning used motor  
29 vehicle dealer service and handling fees, is amended to read as follows:

30 (e) The ~~Department~~ division ~~of Arkansas State Police~~ may promulgate  
31 rules to implement, enforce, and administer this section.

32  
33 SECTION 15. Arkansas Code Title 23, Chapter 112, Subchapter 6, is  
34 amended to add additional sections to read as follows:

35 23-112-618. Used motor vehicle dealer application.

36 (a) An application for a license under this subchapter shall:

1           (1) Be in the form prescribed by the Director of the Division of  
2 Arkansas State Police; and

3           (2) Include:

4                   (A) The full name and business address of the applicant;

5                   (B) The name under which the applicant intends to do  
6 business; and

7                   (C)(i) Submission of the applicant's fingerprints.

8                           (ii) An out-of-state applicant shall submit two (2)  
9 classifiable sets of fingerprints, and an in-state applicant shall submit  
10 fingerprints through a harvester or livescan operator located within the  
11 state;

12                   (D) A verified statement disclosing any record of arrests,  
13 pending criminal charges, or convictions of the applicant of a felony,  
14 including a felony that has been sealed or expunged;

15                   (E) For an applicant who is an individual:

16                           (i) Any information required by the director that  
17 would show that the applicant is honest, trustworthy, and of good character;  
18 and

19                           (ii) The Social Security number of the applicant;  
20 and

21                   (F) For an applicant who is not an individual, the  
22 taxpayer identification number of the applicant.

23           (b)(1)(A) A first-time applicant or an applicant for license or  
24 credential renewal shall apply to the Division of Arkansas State Police for a  
25 state and national criminal background check to be conducted by the division  
26 and the Federal Bureau of Investigation.

27                   (B) Criminal history records from the Arkansas Crime  
28 Information Center shall be available to the director for the review of an  
29 applicant.

30           (2) The state and national criminal background check required  
31 under this subsection shall:

32                   (A) Conform to applicable federal standards; and

33                   (B) Include the taking of fingerprints as required in  
34 subdivision (a)(2)(C) of this section.

35           (3) The applicant shall:

36                   (A) Sign a release of information to the director; and

1           (B) Pay any fee associated with the state and national  
2 criminal background check.

3           (4) Upon completion of the state and national criminal  
4 background check required under this subsection, the division shall forward  
5 to the director all releasable information obtained concerning the applicant.

6           (c) The burden is on the applicant to provide information that is  
7 sufficient to allow the director to determine if the applicant is qualified  
8 to hold a license under this subchapter.

9  
10       23-112-619. Fingerprint cards.

11       (a) The Identification Bureau of the Division of Arkansas State Police  
12 may retain the fingerprints collected for an individual who is fingerprinted  
13 under this subchapter.

14       (b) The Director of the Division of Arkansas State Police may enroll a  
15 person issued a license under this subchapter in a program that  
16 electronically notifies law enforcement if the person has been arrested.

17  
18       23-112-620. Retail used motor vehicle dealer.

19       (a) An applicant for a retail used motor vehicle dealer's license  
20 shall provide a certificate of good standing from the Secretary of State to  
21 the Division of Arkansas State Police with the application for a retail used  
22 motor vehicle dealer's license.

23       (b)(1) A retail used motor vehicle dealer is limited to four (4)  
24 dealerships per business location.

25       (2) A retail used motor vehicle dealer shall maintain a minimum  
26 vehicle inventory of at least five (5) vehicles per dealership at the  
27 business location of the retail used motor vehicle dealer.

28       (3) A retail used motor vehicle dealer shall meet the annual  
29 sales requirements under § 23-112-607(b)(2).

30  
31       23-112-621. Wholesale used motor vehicle dealer.

32       (a) An applicant for a wholesale used motor vehicle dealer's license  
33 shall submit a separate application for a wholesale used motor vehicle  
34 dealer's license to the Division of Arkansas State Police.

35       (b) A wholesale used motor vehicle dealer is not required to maintain  
36 inventory at the wholesale used motor vehicle dealer's place of business.



1        (c) Unless a wholesale used motor vehicle dealer is also a licensed  
 2 retail used motor vehicle dealer, engaging in retail sales is grounds for the  
 3 revocation of a wholesale used motor vehicle dealer’s license.

4  
 5        23-112-622. Procedure for denial of application for license.

6        (a) The Director of the Division of Arkansas State Police may deny the  
 7 issuance of a license under this subchapter.

8        (b) The director shall notify the applicant in writing of the  
 9 director’s decision to deny the issuance of a license.

10       (c) An applicant whose application for a license has been denied under  
 11 this section may appeal the decision to the director by submitting an appeal  
 12 within ten (10) days of the receipt of the notice of denial issued under  
 13 subsection (b) of this section.

14  
 15       23-112-623. Used motor vehicle dealer plates – Penalties.

16       (a) When an applicant for a retail used motor vehicle dealer’s license  
 17 or a wholesale used motor vehicle dealer’s license obtains a retail used  
 18 motor vehicle dealer’s license or a wholesale used motor vehicle dealer’s  
 19 license, the Department of Finance and Administration shall issue:

20           (1) To a licensed retail used motor vehicle dealer:

21                (A) One (1) master plate;

22                (B) One (1) transporter plate; and

23                (C) One (1) extra dealer plate; and

24           (2) To a licensed wholesale used motor vehicle dealer:

25                (A) One (1) master plate; and

26                (B) One (1) transporter plate.

27       (b) The holder of the retail used motor vehicle dealer’s license or  
 28 wholesale used motor vehicle dealer’s license shall be the only person to  
 29 possess a master plate issued under subsection (a) of this section.

30       (c) Only one (1) salesperson or manager may possess and use the extra  
 31 dealer plate.

32       (d) Misuse of a used motor vehicle dealer plate shall result in the  
 33 confiscation of the used motor vehicle dealer plate by law enforcement or an  
 34 inspector assigned to the Division of Arkansas State Police Used Motor  
 35 Vehicle Division.

36       (e)(1)(A) A person who violates this section is subject to a civil

1 penalty of one thousand dollars (\$1,000) for each violation.

2 (B) A person who violates this section shall surrender the  
3 dealer plates issued under subsection (a) of this section to law enforcement.

4 (2) The division shall assess penalties for a violation of this  
5 section by written notice to the violator.

6 (3) If a civil penalty assessed under this section is not paid  
7 within forty-five (45) days of notice of the violation, the wholesale used  
8 motor vehicle dealer's license or the retail used motor vehicle dealer's  
9 license, or both, of the person who committed the violation shall be  
10 suspended.

11 (4) Upon a third or subsequent violation of this section, the  
12 wholesale used motor vehicle dealer's license or the retail used motor  
13 vehicle dealer's license, or both, of the person who committed the violation  
14 shall be revoked.

15 (f) A civil penalty assessed under this section shall be remitted to  
16 the division and shall be deposited into the State Treasury to the credit of  
17 the Division of Arkansas State Police Fund.

18  
19 23-112-624. Grounds for disciplinary action.

20 (a) The Director of the Division of Arkansas State Police may suspend  
21 or revoke a license or issue a fine in an amount not to exceed one thousand  
22 dollars (\$1,000) for each violation of this subchapter.

23 (b) The director may deny an application or renewal for a license on  
24 proof that the applicant or licensee:

25 (1) Violated this subchapter or violated a rule promulgated  
26 under this subchapter;

27 (2) No longer meets the qualifications for a license under this  
28 subchapter; or

29 (3) Has been arrested for an offense that, if convicted, would  
30 result in disqualification for the license under this subchapter.

31 (c)(1) The director may summarily suspend a license issued under this  
32 subchapter for no more than sixty (60) days if it is shown that the health,  
33 safety, or welfare of the public is endangered.

34 (2) If a hearing on a license that has been summarily suspended  
35 is adjourned at the request of the licensee, the suspension may be continued  
36 for the additional period of the adjournment.

1        (d) The director may suspend a license of a person who is found guilty  
2 of or has pleaded guilty or nolo contendere to a felony or a crime involving  
3 an act of violence in this state or a comparable offense in another state or  
4 territory of the United States or in any foreign country.

5  
6        23-112-625. License – Record of denial, revocation, or suspension.

7        If the Director of the Division of Arkansas State Police denies an  
8 application, suspends or revokes a license, or imposes a fine under this  
9 subchapter, the director’s decision shall be mailed to the applicant or  
10 license holder within sixty (60) days of the director’s decision.

11  
12        23-112-626. Appeal of denial, suspension, or revocation – Venue.

13        (a) The denial, suspension, or revocation of a license under this  
14 subchapter by the Director of the Division of Arkansas State Police:

15                (1) May be appealed to the Pulaski County Circuit Court; and

16                (2) Shall be governed by § 25-15-212.

17        (b) Venue for the appeal to circuit court under this section shall be  
18 in Pulaski County, Arkansas.

19  
20        SECTION 16. TEMPORARY LANGUAGE. DO NOT CODIFY. Currently issued  
21 extra dealer plates – Effectiveness.

22        (a) A currently issued extra dealer plate that is valid and in good  
23 standing with the Division of Arkansas State Police and the Department of  
24 Finance and Administration shall remain active until the expiration date of  
25 the extra dealer plate.

26        (b) Upon expiration of a currently issued extra dealer plate, the  
27 currently issued extra dealer plate shall be returned to the Department of  
28 Finance and Administration and shall be no longer valid for use by the used  
29 motor vehicle dealer.

30  
31        SECTION 17. TEMPORARY LANGUAGE. DO NOT CODIFY. Dealer’s license –  
32 Rules – Promulgation.

33        The Division of Arkansas State Police shall promulgate rules for the  
34 application and issuance of a retail used motor vehicle dealer’s license or  
35 wholesale used motor vehicle dealer’s license within one hundred twenty (120)  
36 days of the effective date of this act.