

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

*As Engrossed: H2/17/09,H2/23/09*

# A Bill

HOUSE BILL 1327

5 By: Representatives Allen, Williams, Hardy, R. Green, T. Baker, W. Lewellen, Word, Everett, Pennartz,  
6 Blount  
7  
8

## For An Act To Be Entitled

10 AN ACT TO PROTECT CONSUMERS OF MOTOR VEHICLES  
11 FROM EXPOSURE TO TOXIC CHEMICALS BY REQUIRING THE  
12 SELLER OF A MOTOR VEHICLE TO DISCLOSE WHETHER THE  
13 MOTOR VEHICLE WAS SEIZED PURSUANT TO A  
14 *METHAMPHETAMINE CONTAMINATED* SEIZURE BY LAW  
15 ENFORCEMENT; AND FOR OTHER PURPOSES.  
16

## Subtitle

17 *TO PROTECT CONSUMERS OF MOTOR VEHICLES*  
18 *BY REQUIRING THE SELLER TO DISCLOSE*  
19 *WHETHER THE MOTOR VEHICLE IS FROM*  
20 *METHAMPEHTAMINE CONTAMINATED SEIZURE.*  
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code Title 4, Chapter 90, is amended to add an  
26 additional subchapter to read as follows:

27 4-90-801. Title.

28 This subchapter shall be known and may be cited as the "Consumer  
29 Protection from Toxic Chemicals in Motor Vehicles Act".  
30

31 4-90-802. Definitions.

32 As used in this subchapter:

33 (1) "First purchaser" means the person who purchases a motor  
34 vehicle from a methamphetamine contaminated seizure when the seller is a law  
35 enforcement agency or the prosecuting attorney;

36 (2) "Methamphetamine" has the same meaning as provided in the



1 Uniform Controlled Substances Act, § 5-64-101 et seq.;

2 (4) "Methamphetamine contaminated seizure" means the seizure of  
3 a motor vehicle by a law enforcement agency pursuant to an arrest related to  
4 the manufacture of methamphetamine and there is scientific proof that the  
5 motor vehicle is contaminated by methamphetamine to the extent that it poses  
6 a serious health hazard.

7 (5)(A) "Motor vehicle" means a self-propelled vehicle with tires  
8 that is designed and used primarily for surface transportation on highways  
9 and roads.

10 (B) "Motor vehicle" does not include vehicles operated  
11 exclusively on railroad tracks;

12 (6) "Person" means an individual, firm, partnership,  
13 incorporated or unincorporated association, or other legal or commercial  
14 entity;

15 (7) "Repair" means to restore to useable condition by replacing  
16 a part of a motor vehicle that is contaminated or otherwise damaged by the  
17 manufacture of methamphetamine or methamphetamine-related chemical substance;

18 (8) "Title" means the certificate of title or other document  
19 issued by this state or another state indicating ownership and includes a  
20 manufacturer's statement or certificate of origin; and

21 (9) "Transfer" means to change ownership by sale, gift, or other  
22 means.

23  
24 4-90-803. Disclosure requirements on transfer of a motor vehicle from  
25 a methamphetamine contaminated seizure.

26 (a)(1) A law enforcement agency or prosecuting attorney that is  
27 disposing of or otherwise transferring a motor vehicle from a methamphetamine  
28 contaminated seizure shall provide written notice to the Office of Motor  
29 Vehicle of the Revenue Division of the Department of Finance and  
30 Administration and the first purchaser of the status of the motor vehicle.

31 (2) The notice shall include the vehicle identification number  
32 of the vehicle.

33 (3) The notice shall be printed on all subsequent titles issued  
34 by the Office of Motor Vehicle.

35 (4) If the first purchaser does not receive written notice  
36 before the sale, the sale is voidable at the option of the first purchaser.

1           (b)(1) The first purchaser shall provide written notice to the  
2 subsequent purchaser of the motor vehicle from a methamphetamine contaminated  
3 seizure if the notice does not appear on the title documents.

4           (2)(A) If the notice that the motor vehicle is from a  
5 methamphetamine contaminated seizure does not appear on the title documents  
6 at the time of the transfer from the first purchaser to the subsequent  
7 purchaser, the first purchaser shall provide written notice to the Office of  
8 Motor Vehicle.

9           (B) The notice shall include the vehicle identification  
10 number of the vehicle.

11           (C) The notice shall be printed on all subsequent titles  
12 issued by the Office of Motor Vehicle.

13           (c)(1) If any subsequent purchaser of a motor vehicle from a  
14 methamphetamine contaminated seizure discovers the status of the motor  
15 vehicle but had not received written notice of the condition, the status was  
16 not on the title that he or she received the subsequent purchaser shall  
17 provide written notice to the Office of Motor Vehicle.

18           (2) The notice shall include the vehicle identification number of  
19 the vehicle.

20           (3) The notice shall be printed on all subsequent titles issued  
21 by the Office of Motor Vehicle.

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23           4-90-804. Penalties and enforcement.

24           (a)(1)(A) If a first purchaser or subsequent purchaser knows or should  
25 have known that the motor vehicle was from a methamphetamine contaminated  
26 seizure and fails to provide notice that the motor vehicle that is being sold  
27 is from a methamphetamine contaminated seizure as required under § 4-90-803,  
28 an unfair or deceptive act or practice as defined under the consumer  
29 protection laws under Title 4 has occurred and is punishable as provided in  
30 this section.

31           (B) All remedies, penalties, and authority granted to the  
32 Attorney General under the consumer protection laws under Title 4 shall be  
33 available to the Attorney General for the enforcement of this subchapter as  
34 provided under subsection (a)(1)(A) of this section, including without  
35 limitation an action to:

36           (i) Enjoin the violation; and

1                   (ii) Recover:

2                   (a) Amounts for which the person is liable under §  
3 4-90-805(a) to each private person; and

4                   (b) Costs, investigative costs, and reasonable  
5 attorney's fees.

6                   (2)(A) An action under this subsection may be brought in an  
7 appropriate court of competent jurisdiction in the county in which the  
8 aggrieved purchaser resides or transacts business or in the judicial district  
9 in which the state capital is located.

10                   (B) The action must be brought no later than two (2) years  
11 after the claim accrues.

12                   (b) It is a defense to prosecution of a matter under this section if  
13 the defendant establishes that he or she is:

14                   (1) A first purchaser that did not receive notice from the law  
15 enforcement agency or prosecuting attorney as provided under § 4-90-803(a);  
16 or

17                   (2) A subsequent purchaser that did not receive notice from the  
18 first purchaser as provided under § 4-90-803(c).

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20                   4-90-805. Civil actions by private persons.

21                   (a)(1) an aggrieved purchaser may bring a civil action to enforce a  
22 claim under this subsection in the county where he or she resides or where  
23 the vehicle was purchased.

24                   (2) The action must be brought no later than two (2) years after  
25 the claim accrues.

26                   (3) The court may award costs and a reasonable attorney's fee to  
27 the person when a judgment is entered for that person.

28                   (b) This subchapter shall not limit in any way other statutory or  
29 common law rights, causes of actions, or remedies that are otherwise  
30 available to a person including without limitation an action for:

31                   (1) Breach of warranty;

32                   (2) Fraud;

33                   (3) Negligent misrepresentation;

34                   (4) Intentional misrepresentation;

35                   (5) Deceptive trade practices actions;

36                   (6) Rescission; or

1                   (7) Revocation of acceptance.

2                   (c) It is a defense to a claim brought under this section if the  
3 defendant establishes that he or she is:

4                   (1) A first purchaser that did not receive notice from the law  
5 enforcement agency or prosecuting attorney as provided under § 4-90-803 (a);  
6 or

7                   (2) A subsequent purchaser that did not receive notice from the  
8 first purchaser as provided under § 4-90-803(c).

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10                  4-90-806. Rules.

11                  The Director of the Department of Finance and Administration shall  
12 adopt rules for the implementation and administration of this subchapter.

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*/s/ Allen*

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