

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1171

By: Representative Gonzales

For An Act To Be Entitled

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

Subtitle

TO REPEAL THE LAW CONCERNING THE
PROCEDURE REQUIRED FOR THE ADDITION OR
RELOCATION OF A NEW MOTOR VEHICLE DEALER.

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

SECTION 1. Arkansas Code § 19-6-301(99), concerning special revenues deposited into the State Treasury, is amended to read as follows:

(99) Arkansas Motor Vehicle Commission license fees, as enacted by Acts 1975, No. 388, known as the "Arkansas Motor Vehicle Commission Act", §§ 23-112-101 – 23-112-103, 23-112-105, 23-112-201 – 23-112-205, 23-112-301 – ~~23-112-311~~ 23-112-310, 23-112-401 [repealed], 23-112-402 – 23-112-404, 23-112-405 [repealed], 23-112-406, and 23-112-501 – 23-112-509;

SECTION 2. Arkansas Code § 23-112-301(c)(3), concerning the license required by a motor vehicle dealer and lessor, is amended to read as follows:

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

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 Arkansas Code § 23-112-311 is repealed.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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