

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

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

As Engrossed: S3/17/21  
**A Bill**

HOUSE BILL 1355

By: Representative Dotson

### **For An Act To Be Entitled**

AN ACT TO AMEND THE ARKANSAS MOTOR VEHICLE COMMISSION ACT; TO AMEND THE RECREATIONAL VEHICLE FRANCHISE ACT; TO REMOVE LICENSING REQUIREMENTS FOR A MOTOR VEHICLE SALESPERSON AND A RECREATIONAL VEHICLE SALESPERSON; TO CREATE THE AUTOMOTIVE TECHNOLOGIST EDUCATION GRANT PROGRAM AND THE AUTOMOTIVE TECHNOLOGIST EDUCATION GRANT FUND; AND FOR OTHER PURPOSES.

### **Subtitle**

TO REMOVE LICENSING REQUIREMENTS FOR A MOTOR VEHICLE SALESPERSON AND A RECREATIONAL VEHICLE SALESPERSON; AND TO CREATE THE AUTOMOTIVE TECHNOLOGIST EDUCATION GRANT PROGRAM AND FUND.

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

SECTION 1. Arkansas Code Title 19, Chapter 5, Subchapter 12, is amended to add an additional section to read as follows:

19-5-1269. Automotive Technologist Education Grant Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Automotive Technologist Education Grant Fund".

(b) The Arkansas Motor Vehicle Commission shall periodically remit to the Treasurer of State five percent (5%) of the fees the commission collects from the issuance of licenses by the commission, and the Treasurer of State shall deposit those funds into the fund.



(c) The commission may receive gifts, grants, bequests, devises, and donations made to the commission, amounts received as matching funds from eligible organizations participating in the Automotive Technologist Education Grant Program under § 25-30-110, and any other funds authorized by law to be used in the furtherance of the purposes of the program.

(d) In addition, the commission may accept gifts, grants, or donations from the United States Government or agencies of the United States Government and private individuals, foundations, or concerns to be used for the purposes of the program.

(e) The fund may be used by the commission to issue Automotive Technologist Education Grants for the program.

SECTION 2. Arkansas Code § 23-112-102(b), concerning the purpose and legislative findings of the Arkansas Motor Vehicle Commission Act, is amended to read as follows:

(b) The General Assembly further finds and declares that it is necessary, in the exercise of its police power, to regulate and to license motor vehicle manufacturers, factory branches and divisions, distributors, distributor branches and divisions, distributor representatives, and new motor vehicle dealers, ~~and salespersons~~ doing business in Arkansas in order to:

- (1) Prevent frauds, unfair practices, discrimination, impositions, and other abuses upon the citizens of Arkansas;
- (2) Avoid undue control of the independent motor vehicle dealer by motor vehicle manufacturing and distributing organizations;
- (3) Foster and keep alive vigorous and healthy competition;
- (4) Prevent the creation or perpetuation of monopolies;
- (5) Prevent the practice of requiring the buying of special features, accessories, special models, appliances, and equipment not desired by a motor vehicle dealer or the ultimate purchaser;
- (6) Prevent false and misleading advertising;
- (7) Promote and keep alive a sound system of distribution of motor vehicles to the public; and
- (8) Promote the public safety and welfare.

SECTION 3. Arkansas Code § 23-112-103(23), concerning the definition

of "motor vehicle salesperson" under the Arkansas Motor Vehicle Commission Act, is repealed.

~~(23) "Motor vehicle salesperson" means any person who:~~

~~(A) Is employed as a salesperson by a motor vehicle dealer whose duties include the selling or offering for sale of motor vehicles;~~

~~(B) For compensation of any kind, acts as a salesperson, agent, or representative of a motor vehicle dealer;~~

~~(C) Attempts to or in fact negotiates a sale of a motor vehicle owned partially or entirely by a motor vehicle dealer;~~

~~(D) Uses the financial resources, line of credit, or floor plan of a motor vehicle dealer to purchase, sell, or exchange any interest in a motor vehicle; and~~

~~(E) Is employed by a motor vehicle dealer as a salesperson for whom a motor vehicle dealer requires to have licensure for simultaneous employment as a finance manager, insurance manager, service manager, parts manager, or other specified office personnel concerned with the sale of a motor vehicle under this chapter;~~

SECTION 4. Arkansas Code Title 23, Chapter 112, Subchapter 2, is amended to add an additional section to read as follows:

23-112-205. Automotive Technologist Education Grant Program.

(a) The Automotive Technologist Education Grant Program is established within the Arkansas Motor Vehicle Commission.

(b)(1) The commission shall use the Automotive Technologist Education Grant Program to provide discretionary grants to career education programs with a focus on training in the automotive technology field.

(2) A discretionary grant provided under subdivision (b) (1) of this section shall be known as an "Automotive Technologist Education Grant".

(c) An educational program is eligible for an Automotive Technologist Education Grant if:

(1) The educational program is an approved technical program that provides training in the field of automotive repair and technology and operates at a public school, a secondary technical center, or an institution of higher education;

(2) The educational program submits an application for an Automotive Technologist Education Grant;

(3) The use and purpose of the Automotive Technologist Education Grant is detailed in the application; and

(4) The amount of funding needed is provided in the application.

(d) Grants provided under this section are contingent on the availability of funding.

(e) The Office of Skills Development, the Division of Career and Technical Education, and the Division of Higher Education shall jointly create an application form for an Automotive Technologist Education Grant.

(f) The Office of Skills Development, the Division of Career and Technical Education, and the Division of Higher Education shall jointly review and make recommendations on applications for an Automotive Technologist Education Grant to the commission for approval.

(g) The amount of an Automotive Technologist Education Grant may vary among applicants based on available funding and grant priorities.

(h) The commission shall disburse an Automotive Technologist Education Grant directly to the approved applicant within thirty (30) days of approval.

(i) The commission shall award Automotive Technologist Education Grants under this subchapter.

(j) An educational program that receives an Automotive Technologist Education Grant shall provide the commission an accounting report of how an Automotive Technologist Education Grant is spent within one (1) year of receipt of the Automotive Technologist Education Grant.

(k)(1) Annually, the commission shall file a written report with the Legislative Council based on information provided to the commission from the Office of Skills Development, the Division of Career and Technical Education, and the Division of Higher Education.

(2) The report under subdivision (k)(1) of this section shall include:

(A) The number of applications received;

(B) The amount of funding that was received;

(C) The amount of funding that was awarded; and

(D) Any other information requested by the Legislative Council.

SECTION 5. Arkansas Code § 23-112-301(a)(2), concerning required licenses under the Arkansas Motor Vehicle Commission Act, is amended to read

as follows:

(2) For any person to engage in business as, serve in the capacity of, or act as a new motor vehicle dealer, ~~motor vehicle salesperson,~~ motor vehicle lessor, manufacturer, importer, distributor, factory branch or division, distributor branch or division, factory representative, distributor representative, second-stage manufacturer, or converter, as such, in Arkansas without first obtaining a license therefor as provided in this chapter, regardless of whether or not the person maintains or has a place of business in Arkansas.

SECTION 6. Arkansas Code § 23-112-301(d), concerning required licenses under the Arkansas Motor Vehicle Commission Act, is amended to read as follows:

(d)(1) ~~No person may~~ A person shall not engage in the business of buying, selling, or exchanging motor vehicles, unless he or she:

(A) Holds a valid motor vehicle dealer license issued by the commission for the makes of motor vehicles being bought, sold, or exchanged; or

(B) Is a bona fide employee or agent of the ~~licensee~~ licensed motor vehicle dealer.

(2) ~~For purposes of~~ As used in this subsection, "engage in the business of buying, selling, or exchanging motor vehicles" means:

(A) Displaying for sale motor vehicles on a lot or showroom;

(B) Advertising for sale new motor vehicles regardless of the medium used; or

(C) Regularly or actively soliciting buyers for motor vehicles.

SECTION 7. Arkansas Code § 23-112-303(c) and (d), concerning required license application fees under the Arkansas Motor Vehicle Commission Act, are amended to read as follows:

(c) The schedule of license fees to be charged and received by the Arkansas Motor Vehicle Commission for the licenses issued ~~pursuant to~~ under this subchapter shall be as follows:

(1) For each manufacturer, distributor, factory branch and

division, or distributor branch and division, second-stage manufacturer, importer, and converter, nine hundred dollars (\$900);

(2) For each motor vehicle dealer or motor vehicle lessor, one hundred dollars (\$100);

(3) For each manufacturer, distributor, or factory representative, four hundred dollars (\$400);

~~(4) For each motor vehicle salesperson, fifteen dollars (\$15.00);~~

~~(5)~~ For each branch location, twenty-five dollars (\$25.00); and

~~(6)~~(5) For each replacement certificate of license, ten dollars (\$10.00).

(d)(1) ~~Any~~ A person, firm, or corporation required to be licensed under this subchapter ~~who~~ that fails to make application for the license at the time required shall pay a penalty of fifty percent (50%) of the amount of the license fee for each thirty (30) days of default, in addition to the fees required to be paid ~~pursuant to~~ under subsection (c) of this section.

(2) ~~However, the~~ The penalty under subdivision (d)(1) of this section may be waived, in whole or in part, within the discretion of the commission.

~~(2) License applications for sales personnel shall be received in the commission office within thirty (30) days of employment.~~

SECTION 8. Arkansas Code § 23-112-306 is repealed.

~~23-112-306. Display of license—Change of employer—Salesperson.~~

~~(a) Every motor vehicle salesperson shall have his or her license upon his or her person or displayed at his or her place of employment, except as provided in this section, when engaged in his or her business and shall display the license upon request. The name and address of the applicant shall be stated on the license.~~

~~(b) In case of a change of employer, the following procedure shall be adhered to:~~

~~(1) Within three (3) days following the change, the licensee shall notify in writing the Arkansas Motor Vehicle Commission for its endorsement;~~

~~(2) Within three (3) days following the termination of employment of the licensee, the last employer of the licensee shall make a~~

~~report to the commission setting forth the reasons why the services of the licensee were terminated and such other information as may be required by the commission;~~

~~(3) Upon receipt by the commission of the licensee's written notification and the last employer's report, the commission shall determine if it has grounds to believe, and does believe, that the licensee is no longer qualified under the provisions of this chapter as a motor vehicle salesperson. Under such circumstances, the commission shall immediately notify the licensee and the licensee's new employer in writing that a hearing will be held for the purpose of determining whether his or her license should be revoked or suspended, specifying the grounds for revocation or suspension, as the case may be, and the time and place for the hearing. The hearing and any and all appeals by the licensee with respect thereto shall be in accordance with the provisions of § 23-112-501 et seq.; and~~

~~(4)(A) If, after the commission receives the licensee's license and fee and his or her last employer's report, the Executive Director of the Arkansas Motor Vehicle Commission cannot for any reason endorse and mail to the licensee his or her license within a period of three (3) days following the receipt by the commission of the licensee's license and fee and his or her last employer's report, then and in that event the executive director shall mail to the licensee a permit in such form as the commission shall prescribe.~~

~~(B) The permit shall serve in lieu of a license until such time as the commission endorses and mails the license to the licensee, or until such time as the licensee's license is revoked or suspended in accordance with the provisions of this chapter.~~

~~(C) If the license is ultimately revoked or suspended, then immediately upon the revocation or suspension the licensee shall return the permit to the commission for cancellation.~~

~~(c) The commission shall maintain a permanent file with respect to each licensed motor vehicle salesperson. Each file shall contain all pertinent information with respect to the fitness and qualifications of each licensee for the use by the commission in determining from time to time whether his or her license should be revoked or suspended.~~

~~(d) There is no intent under this chapter to prevent a salesperson who has not previously been licensed as a salesperson from selling during the~~

~~time required to process his or her application. The applicant shall be allowed to sell from the date of employment as long as the applicant and his or her dealer follow the procedure for license application.~~

SECTION 9. Arkansas Code § 23-112-307 is amended to read as follows:  
23-112-307. Expiration of license.

Unless the Arkansas Motor Vehicle Commission by rule provides to the contrary, all licenses issued to:

- (1) Manufacturers, distributors, factory or distributor branches, importers, second-stage manufacturers, converters, and their representatives expire June 30 following the date of issue; and
- (2) Motor vehicle dealers, ~~motor vehicle salespersons~~, and motor vehicle lessors expire December 31 following the date of issue.

SECTION 10. Arkansas Code § 23-112-308(a)(1)(A), concerning the denial, revocation, and suspension of licenses under the Arkansas Motor Vehicle Commission Act, is amended to read as follows:

(1)(A) For selling or soliciting sales of a motor vehicle without:

(i) a A motor vehicle dealer license issued by the commission; or

(ii) Being a bona fide employee or agent of a licensed motor vehicle dealer.

SECTION 11. Arkansas Code § 23-112-402 is amended to read as follows:  
23-112-402. ~~Dealer and salesperson~~ Motor vehicle dealer.

It ~~shall be~~ is unlawful for a motor vehicle dealer ~~or a motor vehicle salesperson~~:

(1)(A) To require a purchaser of a motor vehicle, as a condition of sale and delivery ~~thereof~~ of the motor vehicle, to also purchase special features, appliances, equipment, parts, or accessories not desired or requested by the purchaser.

(B) ~~However, this prohibition shall not apply as the prohibition under subdivision (1)(A) of this section does not apply to special features, appliances, equipment, parts, or accessories which that are already installed on the ear~~ motor vehicle when received by the motor vehicle

dealer;

(2) To represent and sell as a new motor vehicle any motor vehicle ~~which~~ that has been used and operated for demonstration purposes or ~~which~~ that is otherwise a used motor vehicle; or

(3) To resort to or use any false or misleading advertisement in connection with his or her business as a motor vehicle dealer ~~or motor vehicle salesperson.~~

SECTION 12. Arkansas Code § 23-112-1002(2), concerning the General Assembly's police power to regulate certain entities under the Recreational Vehicle Franchise Act, is amended to read as follows:

(2) It is necessary, in the exercise of the General Assembly's police power, to regulate and to license recreational vehicle manufacturers, factory branches and divisions, distributors, distributor branches and divisions, distributor representatives, and dealers, ~~and salespersons~~ doing business in Arkansas to:

(A) Prevent fraud, unfair practices, discrimination, impositions, and other abuses upon the citizens of Arkansas;

(B) Foster and keep alive vigorous and healthy competition;

(C) Prevent the creation or perpetuation of monopolies;

(D) Prevent the practice of requiring the buying of special features, accessories, special models, appliances, and equipment not desired by a recreational vehicle dealer or the ultimate purchaser;

(E) Prevent false and misleading advertising;

(F) Promote and keep alive a sound system of distribution of recreational vehicles to the public; and

(G) Promote the public safety and welfare.

SECTION 13. Arkansas Code § 23-112-1003(16)-(20), concerning the various definitions under the Recreational Vehicle Franchise Act, are amended to read as follows:

(16) ~~"Recreational vehicle salesperson" means a person who:~~

~~(A) Is employed by a dealer as a salesperson whose duties include the selling or offering for sale of recreational vehicles;~~

~~(B) For compensation of any kind acts as a salesperson;~~

~~agent, or representative of a dealer;~~

~~(C) Attempts to or in fact negotiates a sale of a recreational vehicle owned partially or entirely by a dealer; and~~

~~(D) Uses the financial resources, line of credit, or floor plan of a dealer to purchase, sell, or exchange an interest in a recreational vehicle;~~

~~(17)~~ “Supplier” means a person, firm, corporation, or business entity that engages in the manufacturing of recreational vehicle parts, accessories, or components;

~~(18)~~(17) “Transient customer” means a person who:

(A) Owns a recreational vehicle;

(B) Is temporarily traveling through a dealer’s area of sales responsibility;

(C) Engages a dealer to perform service work on that recreational vehicle; and

(D) Requires repairs that relate to the safe operation of that recreational vehicle that, if not undertaken are of a nature that would render that recreational vehicle unusable for its intended purpose;

~~(19)~~(18) “Travel trailer” means a recreational vehicle designed to be towed by a motorized vehicle; and

~~(20)~~~~(A)~~(19)~~(A)~~ “Warrantor” means a person, firm, corporation, or business entity, including without limitation a manufacturer or supplier, that provides a written warranty to the consumer in connection with a new recreational vehicle or accessories, parts, or components of a new recreational vehicle.

(B) “Warrantor” does not include service contracts, mechanical or other insurance, or extended warranties sold for separate consideration by a dealer or other person not controlled by a manufacturer.

SECTION 14. Arkansas Code § 23-112-1004(a)(2), concerning unlawful acts regarding license requirements under the Recreational Vehicle Franchise Act, is amended to read as follows:

(2) Engaging in ~~the~~ business as, serving in the capacity of, or acting as a new recreational vehicle dealer, ~~recreational vehicle salesperson,~~ recreational vehicle manufacturer, recreational vehicle distributor, recreational vehicle factory representative, or recreational

vehicle manufacturer representative in this state without first obtaining a license as provided in this subchapter; or

SECTION 15. Arkansas Code § 23-112-1004(c)(1)(A), concerning license requirements and application fees under the Recreational Vehicle Franchise Act, is amended to read as follows:

(A) Holds a valid dealer license issued by the Arkansas Motor Vehicle Commission for the make of recreational vehicles being bought, sold, or exchanged; or

SECTION 16. Arkansas Code § 23-112-1004(d)(3)(D)-(F), concerning license requirements and application fees under the Recreational Vehicle Franchise Act, are amended to read as follows:

~~(D) For each recreational vehicle salesperson, fifteen dollars (\$15.00);~~

~~(E) For each branch location, twenty-five dollars (\$25.00); and~~

~~(F)(E) For each replacement certificate of license, ten dollars (\$10.00).~~

SECTION 17. Arkansas Code § 23-112-1008 is repealed.

~~23-112-1008. Display of license—Change of employer—Salesperson.~~

~~(a)(1) Except as provided in this section, a recreational vehicle salesperson shall have his or her license upon his or her person or displayed at his or her place of employment when engaged in his or her business and shall display the license upon request.~~

~~(2) The name and address of the applicant shall be stated on the license.~~

~~(b) In case of a change of employer, the following procedure shall be followed:~~

~~(1) Within three (3) days following the change of employer, the licensee shall notify in writing the Arkansas Motor Vehicle Commission for its endorsement;~~

~~(2) Within three (3) days following the termination of employment of the licensee, the last employer of the licensee shall make a report to the commission setting forth the reasons that the services of the~~

~~licensee were terminated and such other information as may be required by the commission;~~

~~(3)(A) Upon receipt by the commission of the licensee's written notification and the last employer's report, the commission shall determine if it has grounds to believe, and does believe, that the licensee is no longer qualified under this subchapter as a recreational vehicle salesperson.~~

~~(B) Under such circumstances, the commission shall immediately notify the licensee and the licensee's new employer in writing that a hearing will be held for the purpose of determining whether his or her license should be revoked or suspended, specifying the grounds for revocation or suspension, as the case may be, and the time and place for the hearing.~~

~~(C) The hearing and any appeal by the licensee with respect to the hearing shall comply with § 23-112-501 et seq.; and~~

~~(4)(A) If after the commission receives the licensee's license and fee and his or her last employer's report the Executive Director of the Arkansas Motor Vehicle Commission cannot for any reason endorse and mail to the licensee his or her license within a period of three (3) days following the receipt by the commission of the licensee's license and fee and his or her last employer's report, then the executive director shall mail to the licensee a permit in such form as the commission shall prescribe.~~

~~(B) The permit shall serve in lieu of a license until such time as the:~~

~~(i) Commission endorses and mails the license to the licensee; or~~

~~(ii) Licensee's license is revoked or suspended in accordance with this subchapter.~~

~~(C) If the license is ultimately revoked or suspended, then immediately upon the revocation or suspension the licensee shall return the permit to the commission for cancellation.~~

~~(c)(1) The commission shall maintain a permanent file with respect to each licensed recreational vehicle salesperson.~~

~~(2) Each file shall contain all pertinent information with respect to the fitness and qualifications of each licensee for use by the commission in determining whether his or her license should be revoked or suspended.~~

~~(d)(1) There is no intent under this subchapter to prevent a~~

~~salesperson who has not previously been licensed as a salesperson from selling during the time required to process his or her application.~~

~~(2) The applicant shall be allowed to sell from the date of employment as long as the applicant and his or her dealer follow the procedure for license application.~~

SECTION 18. Arkansas Code § 23-112-1009(2), concerning the expiration of a license under the Recreational Vehicle Franchise Act, is amended to read as follows:

(2) Recreational vehicle dealers ~~and salespersons~~ expire December 31 following the date of issue.

SECTION 19. Arkansas Code § 23-112-1019(a)(1)(A), concerning the denial, revocation, and suspension of a license under the Recreational Vehicle Franchise Act, is amended to read as follows:

(1)(A) Selling or soliciting sales of a recreational vehicle without:

(i) a A dealer license issued by the commission; or  
(ii) Being a bona fide employee or agent of a  
licensed dealer.

SECTION 20. Arkansas Code § 23-112-1019(a)(15), concerning the denial, revocation, and suspension of a license under the Recreational Vehicle Franchise Act, is amended to read as follows:

(15) For a person representing that he or she is a dealer ~~or salesperson~~, either verbally or in an advertisement, when the person is not licensed as a dealer ~~or salesperson~~;

SECTION 21. Arkansas Code § 25-30-102(a), concerning powers and duties of the Office of Skills Development and the Career Education and Workforce Development Board, is amended to add an additional subdivision to read as follows:

(12) Review and approve Automotive Technologist Education Grant applications.

/s/Dotson