

Title 23. Public Utilities and Regulated Industries

Chapter XII. Arkansas Motor Vehicle Commission, Department of Labor and Licensing

Subchapter A. Generally

Part 410. Arkansas Motor Vehicle Commission Rules

Subpart 1. General Organization

23 CAR § 410-101. Commission meetings.

(a)(1) Regular meetings of the Arkansas Motor Vehicle Commission shall be held on the third Wednesday of each month and will continue in session until business is completed insofar as it is possible.

(2) Any regular meeting of the commission may be set forward, postponed, canceled, or adjourned to another day as determined by the Chair of the Arkansas Motor Vehicle Commission.

(b) Five (5) members shall constitute a quorum.

(c) All regular meetings of the commission shall be held in its office in Little Rock, Arkansas.

(d)(1) Special meetings of the commission may be called at any time by the chair or a majority of the commission.

(2) Special meetings of the commission may, upon approval of the chair or a majority of the commission, be held at any place within the State of Arkansas.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-102. Appearance before the commission.

(a) Any person desiring to appear before the Arkansas Motor Vehicle Commission at any regular meeting to take up any business within the jurisdiction of the commission shall, at least twenty (20) days prior to any such meeting, file with the Director of the Arkansas Motor Vehicle Commission three (3) copies of a written request in which the nature and purpose of the appearance shall be clearly and concisely stated in sufficient

detail to fully apprise the commission of the basis and extent of such business.

(b) This requirement may be waived, in whole or in part, by the director or by unanimous consent of the commissioners present at any meeting, provided that when such a request is in the nature of a complaint against any licensee under Arkansas Code § 23-112-101 et seq., the provisions of Subpart 2 of this part shall be complied with.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-103. Order of business and notice.

The Director of the Arkansas Motor Vehicle Commission shall arrange the order of business for all meetings of the commission and shall, at least fifteen (15) days thereto, notify all persons who are to appear before any such meeting of the place and time of the meeting.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-104. Records of proceedings — Record keeping.

(a) The Director of the Arkansas Motor Vehicle Commission shall keep and maintain on file in the Arkansas Motor Vehicle Commission office a record of all proceedings of the commission.

(b) The director shall also keep on file in the commission office:

- (1) A copy of all rules adopted by the commission;
- (2) A copy of all orders issued by the commission; and
- (3) Copies of all applications and license forms adopted by the commission.

(c) These records and such other records as the commission is by law required to keep and maintain shall be open for public inspection during the regular hours of business of the commission office.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-105. Director vacancy.

At any time a vacancy shall exist in the office of the Director of the Arkansas Motor Vehicle Commission, the powers and duties of that office shall be performed by the commissioner holding the office of Commission Secretary and/or any member of the Arkansas Motor Vehicle Commission staff as the Chair of the Arkansas Motor Vehicle Commission may designate.

Authority. Arkansas Code § 23-112-204.

Subpart 2. Hearing Provisions

23 CAR § 410-201. Hearings provisions and procedures.

(a)(1) Any hearing to be conducted by the Arkansas Motor Vehicle Commission may be held at a regular commission meeting or at a special meeting convened for that purpose.

(2) A hearing may be called on a notarized complaint filed with the commission or on the commission's own motion.

(b) Before denying any application for a license under the Arkansas Motor Vehicle Commission Act, Arkansas Code § 23-112-101 et seq., the commission shall hold a hearing to determine if the applicant is qualified under the provisions of the Arkansas Motor Vehicle Commission Act and this part to receive the license for which application has been made.

(c) Before revoking or suspending any license issued by the commission pursuant to the Arkansas Motor Vehicle Commission Act, the commission shall hold a hearing to determine whether sufficient grounds exist under the provisions of the Arkansas Motor Vehicle Commission Act upon which to base such revocation or suspension.

(d)(1) Any interested party, including the commission on its own motion, shall have the right to petition the commission to call a hearing for the purpose of taking action in respect to any matter within the commission's jurisdiction.

(2) A party requesting a hearing on any allegation that a licensee has violated

the Arkansas Motor Vehicle Commission Act or any rules promulgated hereunder shall initiate the proceeding by filing with the Director of the Arkansas Motor Vehicle Commission a notarized complaint, specifically setting forth the grounds upon which the complaint is based and requesting a hearing on the complaint.

(e)(1) All complaints shall be forwarded to the licensee who is the subject of the complaint for a response pursuant to subsection (h) of this section.

(2) However, the commission shall have the discretion to investigate the alleged violations before sending the complaint to the licensee when it determines that prior investigation is appropriate or necessary to establish facts relevant to the complaint.

(f)(1) All pleadings and motions to be filed relative to any hearing or complaint shall be signed, dated, and filed with the director fifteen (15) days prior to the scheduled hearing.

(2) The commission shall retain the discretion to alter the aforesaid time as circumstances dictate.

(g)(1) Upon receipt of a notarized complaint against any licensee, person, firm, partnership, association, corporation, or legal entity, the commission shall determine if the complaint alleges facts sufficient to give the commission jurisdiction.

(2) If the director or commission is of the opinion that the complaint tendered for filing does not comply with this part, does not sufficiently set forth required information, or is otherwise insufficient, the director or commission may decline to accept the complaint and return it unfiled.

(3) However, the director may proceed on an anonymous complaint regarding violations of commission advertising rules if the documents clearly show the:

- (A) Name of the dealer;
- (B) Name of the publication; and
- (C) Date of publication.

(h)(1) If the complaint is sufficient for filing, the director shall forward a copy of the complaint to the licensee, person, firm, partnership, association, corporation, or legal entity against which the complaint is lodged, together with notice that any written

response to the complaint must be filed with the commission within ten (10) days from the mailing thereof.

(2) Upon receipt of response to the complaint or the expiration of the ten-day time period, whichever occurs first, and upon completion of any further investigation which is deemed appropriate, the commission, in accordance with this part, shall determine if the matter should be set down for hearing on the complaint filed with the commission or on the commission's own motion.

(i)(1)(A) At least thirty (30) days prior to the date of any hearing before the commission, the commission's legal counsel or the director shall give written notice to the parties whose rights may be affected.

(B) The notice shall include a statement of legal authority and jurisdiction under which the hearing is to be held, along with a brief and concise statement of the matters of fact and law involved.

(C) Notice shall be mailed to such parties by registered or certified mail at their last known address.

(2) A "party whose rights may be affected at any hearing" shall mean:

(A) Any applicant for license pursuant to the Arkansas Motor Vehicle Commission Act whose potential licensing is at issue at a hearing;

(B) Any licensee under the Arkansas Motor Vehicle Commission Act against whom the commission could take adverse action at or after a hearing; and

(C) The complainant or party who has filed the complaint that led to the hearing.

(j)(1) Any hearing to be held pursuant to the filing of a notarized complaint against a licensee under the Arkansas Motor Vehicle Commission Act or any hearing convened by the commission upon its own motion at which the issuance, suspension, or revocation of a party's license under the Arkansas Motor Vehicle Commission Act is at issue shall be held in the county of respondent or in the county where such respondent's principal place of business is located unless the respondent shall agree that the hearing be held at the commission office.

(2) If the respondent is a nonresident of this state, the hearing shall be held at

the commission office.

(k)(1) Any party whose rights may be affected at any hearing before the commission may, by written petition signed and dated, invoke the aid of the commission in procurement of any witness the party may desire to be present and testify at any hearing.

(2) Such petition shall be filed with the director at least ten (10) days prior to the hearing date.

(3) Any and all costs anticipated must be deposited with the director at the time of filing of the petition.

(4) The director shall retain the discretion to alter the aforesaid time as circumstances dictate.

(l)(1) Hearings of the commission, after being called to order, shall begin with a statement by the presiding officer as to the nature of the cause to be heard and thereafter the hearing shall proceed with the presentation of evidence on behalf of the complainant (petitioner).

(2) At the conclusion of such evidence, the party complained against (respondent) may proceed to introduce evidence on his or her behalf, after which rebuttal evidence may be offered.

(m) In any proceeding against a licensee under the Arkansas Motor Vehicle Commission Act instituted by the commission, or in other appropriate circumstances, the evidence against such licensee shall be presented by the commission's legal counsel and complaining witnesses will not be allowed to conduct any part of the hearing.

(n) The commission shall not be bound by the rules of evidence applicable in a court and it may admit and give probative value effect to any evidence which possesses such probative value as would entitle it to be accepted by reasonably prudent men and/or women in the conduct of their affairs, provided, however, that the commission shall give effect to the rules of privilege recognized by law and may:

(1) Exclude incompetent, irrelevant, immaterial, or repetitious evidence; and

(2) Make rulings to protect witnesses from undue harassment or oppression.

(o)(1) All evidence, including records and documents introduced at the hearing,

shall be offered and made a part of the record in a hearing, and no other factual information or evidence shall be considered in the determination of any cause.

(2) Documentary evidence may be received in the form of copies or excerpts or incorporation by reference.

(p)(1) If a hearing results from a complaint filed with the commission, the complainant will be required to:

(A) Appear personally and/or by an attorney; and

(B) Present any and all evidence against the licensee at the hearing.

(2) The complainant and licensee/respondent may introduce evidence, cross-examine witnesses, and examine any document or other evidence introduced at the hearing, subject to rulings of the hearing officer.

(q)(1) A final decision shall include findings of fact, conclusions of law, and orders of disposition separately stated in writing or in the record.

(2) A final decision may be rendered after a majority of the commissioners have heard the case or reviewed a transcript of the proceedings.

(3) Parties shall be served either personally or by certified mail with a copy of any decision or order.

(r)(1) No orders of the commission shall become final with respect to any party aggrieved thereby until such party shall have exhausted or had the opportunity to exhaust his or her appellate remedies under the Arkansas Motor Vehicle Commission Act.

(2) Provided, however, the commission may make a decision final from the date of its entry if the commission determines that the failure to do so would be detrimental to the public interest or public welfare.

(s) When the commission conducts a hearing on the adoption or revision of any rule, the commission may, in its discretion, require that the views of any interested parties be presented in writing and be filed with the director at least fifteen (15) days prior to the hearing.

(t)(1) There shall preside at any commission hearing a quorum of the members of the commission or one (1) or more examiners or referees designated by the

commission.

(2) The presiding officer or officers shall have the following powers to:

- (A) Issue subpoenas;
- (B) Administer oaths and affirmation;
- (C) Maintain order;
- (D) Rule on all questions arising during the proceedings;
- (E) Hold conferences for simplification of the issues and to rule upon

motions;

(F) Recommend:

- (i) Findings of fact;
- (ii) Conclusions of law; and
- (iii) Decisions; and

(G) Generally regulate and guide the course of the proceedings.

(u) The director shall, as and when directed by the commission, issue such subpoenas as requested by the parties involved, or as the commission may designate, to:

(1) Bring before the commission any person to this state to give testimony under oath; and

(2) Compel production of records and documents relative to matters to be investigated, considered, or heard by the commission.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-202. Alternate proceedings.

(a)(1)(A) Prior to proceeding to a formal adjudicative hearing as provided for in 23 CAR § 410-201, the case will be reviewed by an ad hoc committee to determine whether summary proceedings should be invoked.

(B) Members of the committee shall be the Chair of the Arkansas Motor Vehicle Commission, Director of the Arkansas Motor Vehicle Commission, and counsel.

(2) If the committee determines that the violation or violations, if proved,

would not warrant license suspension, revocation, or a fine in an amount greater than five thousand dollars (\$5,000), the committee may recommend that the complaint be handled in a summary manner.

(3) This decision will be referred to the Arkansas Motor Vehicle Commission for its acceptance or rejection.

(b)(1) If the commission decides to utilize alternative proceedings, the respondent will be notified by mail that the commission has learned that he or she has engaged in actions which violate the licensing law and that it is recommended that under all circumstances the appropriate sanction is a fine of five thousand dollars (\$5,000) or less.

(2) This notice will further inform the respondent that he or she has a right to reject the proposed fine and have a full evidentiary hearing.

(c)(1) The respondent will be provided with a formal document on which he or she will admit or deny that he or she had violated the licensing law and accept or reject the proposed penalty.

(2) The respondent will indicate that he or she understands that he or she has a right to a full evidentiary hearing before the commission and that he or she elects not to exercise that right.

Authority. Arkansas Code § 23-112-204.

Subpart 3. Advertising

23 CAR § 410-301. Objective.

(a)(1) This subpart implements the legislative intent of the law governing advertising as stated in the Arkansas Motor Vehicle Commission Act, Arkansas Code § 23-112-101 et seq.

(2) False and misleading advertising will be defined and prohibited in a unified effort to ensure truthful and accurate product advertising that will benefit the consumers and businesses of this state affected by legislation.

(3) Certain key examples of prohibited advertising will be exhibited, but shall not be construed as an all-inclusive exhibit of prohibited practices.

(4) The Arkansas Motor Vehicle Commission has been granted the authority to review all advertising pertaining to new and used motor vehicles.

(5) The commission will review each advertisement for misleading and deceptive practices and will govern them accordingly.

(b)(1) This subpart establishes standards of practices which set forth certain basic principles in advertising the sale and lease of new and used motor vehicles.

(2) These standards apply to advertisements both in the print and electronic media.

(c)(1) The primary responsibility for truthful and nondeceptive advertising rests with the advertising dealer.

(2) Advertising dealers must be prepared to substantiate any or all offers made before publication or broadcast, and upon request, present such substantiation.

(d) This subpart does not apply to any radio or television broadcasting station, or any publisher, printer, distributor or owner of any newspaper or magazine, billboard, or other advertising medium, or any owner, operator, agent or employee of any advertising agency or other business engaged in preparing or disseminating advertising for public consumption on behalf of any other person when the advertising is in good faith and he or she is without knowledge of its untrue, deceptive, or misleading character.

(e) It shall be the dealer's responsibility to provide a copy of this subpart to any advertising agent or agency or other business engaged in preparing or disseminating advertisements for the dealer, including outside web page designers or web page design firms and each employee assigned to preparing or disseminating advertisements for the dealer.

(f) Violation of any advertising rule or rules by any licensee shall be considered a prima facie violation of Arkansas Code § 23-112-402(3) or § 23-112-403(a)(2)(D).

(g)(1) The commission will monitor and evaluate each dealer's advertisement regarding its compliance with laws and rules.

- (2) The advertising section's activities include, but are not limited to:
- (A) Review of advertisements in any medium;
 - (B) Review all complaints as received;
 - (C) Answer advertisement inquiries; and
 - (D) Address advertising violations.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-302. Definitions.

As used in this subpart:

(1) "Advertisement" or "advertising" means any oral, written, telecommunicated, graphic, pictorial, or other statement made in the course of soliciting business, including without limitation a statement or representation:

- (A) Made in a newspaper, magazine, internet, or other publication; or
- (B) Contained or appearing in or on:
 - (i) A notice;
 - (ii) A sign;
 - (iii) A poster;
 - (iv) A display;
 - (v) A circular;
 - (vi) A pamphlet;
 - (vii) A letter;
 - (viii) A flyer;
 - (ix) A price tag;
 - (x) A window sticker;
 - (xi) A banner;
 - (xii) A billboard;
 - (xiii) A handbill;
 - (xiv) A radio;
 - (xv) A television;

(xvi) A web page; or

(xvii) Any other medium;

(2) "Bait and switch" means an alluring but insincere offer to switch consumers from buying the advertised motor vehicle, in order to sell or lease a different motor vehicle on terms more advantageous to the advertiser;

(3)(A) "Clear and conspicuous" means that the statement, representation, or term being used is of such size, color, contrast, audibility, and is presented so as to be:

(i) Readily noticed;

(ii) Understood; and

(iii) Nondeceptive.

(B) All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning by the general public;

(4) "Dealer discount" means an amount of reduction or contribution by the dealer to reduce the selling price of the vehicle from "MSRP";

(5) "Dealership addendum" means an equipment list displayed on a window of a motor vehicle when the dealership:

(A) Installs special:

(i) Features;

(ii) Equipment;

(iii) Parts; or

(iv) Accessories; or

(B) Charges for service not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer;

(6) "Disclaimer" means those words or phrases used to provide a clear understanding of an advertised statement but not used to contradict or change the meaning of the statement;

(7) "Disclosure" means required information that is clear, conspicuous, and accurate shall be in the immediate proximity of the year, make, and model offered in the advertisement or stated at a clear and concise level in broadcast mediums;

(8) "Dealer service and handling fees" means a fee that a dealer may charge

in connection with the sale or lease of a new or used motor vehicle for handling, processing, and storage of documents and other administrative and clerical services;

(9) "Incentive" means anything of value offered as an inducement directly or indirectly towards the purchase of a vehicle, including but not limited to, discounts, savings claims, and other dealer programs, but not including factory rebates;

(10) "Limited rebate" means rebates not available to all consumers and is defined as any payment of money to a consumer, or any payment to a dealer or third party on behalf of a consumer, and that is confined, or restricted, to a certain class of consumers, including, but not limited to, on the basis of the consumer's:

- (A) Status;
- (B) Sponsorship;
- (C) Affiliation; or
- (D) Association;

(11) "Line make" means a group or series of motor vehicles that have the same brand identification or brand name, based upon the manufacturer's:

- (A) Trademark;
- (B) Trade name; or
- (C) Logo;

(12) "List" or "sticker" price when used in a new motor vehicle advertisement refers only to the manufacturer's suggested retail price (Monroney sticker or "MSRP");

(13) "Manufacturer label" means the label required by the federal Automobile Information Disclosure Act, 15 U.S.C. §§ 1231 – 1233 (normally referred to as the Monroney label), to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to a dealer;

(14)(A) "MSRP" or "manufacturer suggested retail price" means the "list price" shown on the window sticker or "Monroney label" and is the manufacturer's baseline price for that vehicle.

(B) "Dealership addendums" or "temporary factory value packages" are not a part of "MSRP"; and

(15) "Rebate" means the payment of money from the manufacturer to a

consumer or payment to a dealer or third party on behalf of a consumer on the condition that the consumer purchases or leases a new motor vehicle.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-303. Advertising guidelines for sale or lease of new and used motor vehicles.

(a) General advertising guidelines.

(1)(A) The advertised price of a motor vehicle must be the full cash price for which the dealer will sell or lease the vehicle to any consumer and shall exclude only the following charges:

- (i) State, county, local, and other applicable taxes;
- (ii) License fees; and
- (iii) Title fees.

(B) Charges including, but not limited to, dealer service and handling fees, freight and transportation fees, and preparation fees must be included in the advertised price.

(2)(A) The price of a new motor vehicle, when advertised by a dealer, must be the price that is available to every consumer.

(B) Rebates or incentives that are available to all consumers without qualification can be deducted from the price.

(C) Limited rebates or incentives that are only available to select or qualifying consumers shall not be deducted from the advertised price.

(3) Additionally, a qualification may not be used when advertising the sales price of a vehicle such as:

- (A) "With trade";
- (B) "With acceptable trade"; or
- (C) "With down payment".

(4) Dealers must clearly and prominently identify themselves by their dealership name or their DBA name listed on file with the Arkansas Motor Vehicle

Commission.

(5)(A) Specific motor vehicles, new or used, or line-make of vehicles advertised for sale or lease shall be in the possession of the dealer as advertised at the address given at the time the advertisement is placed or be available to be shipped to the dealer from the manufacturer or distributor within a reasonable period of time.

(B) However, if the time between the placement and the broadcast of the advertisement to the public is excessive, the dealer must have a similar line-make new motor vehicle or an equivalent used motor vehicle to the specific motor vehicle advertised.

(C) The vehicles shall be in condition to be demonstrated, and shall be willingly shown and sold or leased at the advertised prices and upon the terms advertised.

(6) Specific claims or discount offers shall only be used in connection with new or demonstrator vehicles.

(7)(A) Specific claims or discount offers must only be used to show the difference between the dealer's current selling price and the manufacturer's suggested retail price.

(B) The dealer shall include dealer add-ons identified in the dealership addendum when advertising the current selling price.

(8)(A) If an advertisement discloses a rebate, cash back, discount savings claim, or other incentive, the full price of the vehicle (MSRP) must be conspicuously disclosed or stated in the ad as well as the price of the vehicle after deducting the incentive or incentives.

(B) Rebates cannot be combined as one.

(b) False or misleading advertising.

(1) A licensee shall not use false or misleading advertising.

(2)(A) All advertising shall be in plain language, with disclosures of material facts that are clear and conspicuous and nondeceptive.

(B) By way of example and not limitation, the following are in violation of this part:

- (i) Direct statements or reasonable inferences that have the tendency to mislead consumer;
- (ii) Advertising whose overall impression has the tendency to mislead consumers;
- (iii) Disclaimers or disclosures that contradict, confuse, or unreasonably limit or significantly alter a principal message of an advertisement;
- (iv) The failure to make clear and conspicuous disclosures of:
 - (a) Limitations;
 - (b) Disclaimers;
 - (c) Qualifications;
 - (d) Conditions;
 - (e) Exclusions; or
 - (f) Restrictions;
- (v) Statements susceptible to both a misleading and a truthful interpretation;
- (vi) Deceptive statements, even though the true facts are subsequently made known to the consumer; and
- (vii) Using in any advertisement, footnotes, asterisks, or various superscripted symbols, which confuse, contradict, materially modify, or unreasonably limit the material terms of an advertisement.

(3)(A) No advertisement containing an offer to sell or lease a motor vehicle shall be published when the offer is not a bona fide attempt to sell or lease that specific advertised motor vehicle.

(B) Certain acts or practices that will be considered in determining if an advertisement is not a bona fide offer to sell or lease the advertised motor vehicle include:

- (i) The refusal to show, demonstrate, sell, or lease the motor vehicle offered in accordance with the terms of the offer; and
- (ii) The failure to have available at all outlets listed or stated in the advertisement, the number of motor vehicles advertised to meet reasonably anticipated

demands, unless the advertisement clearly and adequately discloses:

- (a) That a supply is limited;
- (b) The merchandise is available only at designated outlets; and
- (c) Any other applicable restrictions to which the advertised

vehicle may be subject.

(4)(A) It is false and misleading to use, in any advertising, inaccurate photographs or illustrations when describing specific automobiles.

(B) If a vehicle description or photograph is inaccurate, the dealer must prove to the commission, that a more acceptable photograph or description was unavailable.

(5) It shall be false and misleading to advertise or represent the dealer service and handling fee charge as a required governmental fee.

(c) Bait-and-switch advertising.

(1) Licensees shall not use bait-and-switch advertising.

(2) No act or practice shall be engaged in by an advertiser to discourage the purchase of the advertised motor vehicle if such act or practice is part of a bait-and-switch scheme to sell or lease other motor vehicles.

(3) Sales or leases resulting from an advertisement for a motor vehicle do not by themselves rule out the existence of a bait-and-switch scheme.

(4) To prevent bait-and-switch advertising from occurring, the vehicle or vehicles advertised must be:

(A) At the advertised location as defined in subdivision (a)(5) of this section;

(B) In condition to be shown;

(C) Willingly shown to the consumer;

(D) Willingly shown under the same terms as advertised; and

(E) Sold at the same terms as advertised, unless the consumer was unharmed in the transaction.

(d) **Minimum advertising requirements.** The following are minimum requirements needed to meet the clear and conspicuous standard as described in

subdivision (b)(2) of this section:

(1) In all printed media, written, typed, and/or graphic advertisements:

(A) Not less than eight-point type print; and

(B) Shall be displayed and phrased in a manner which is clear and conspicuous.

(2)(A) In broadcast commercials:

(i) Terms, conditions, or disclosures shall be clearly and conspicuously displayed or announced during the advertisement; and

(ii) Shall be at a speed equal to or slower than any other statement, representation, or term contained in the advertisement.

(B) "See dealer for details" shall only be used in radio broadcast commercials provided the advertisements meet the federal truth in lending guidelines as defined in 23 CAR § 410-306(a).

(3) For broadcast graphics or advertisements in any other audio-visual medium, the minimum height of fonts and display time should:

(A) Appear on the screen for duration sufficient to allow a viewer to have a reasonable opportunity to read and understand the:

(i) Statement;

(ii) Representation; or

(iii) Term; and

(B) The broadcast graphics shall remain on the screen for a minimum display time of:

(i) Three (3) seconds for the first line of text; and

(ii) One (1) second for each additional line.

(e) Required disclosures.

(1) Disclosures should only be used in limited circumstances and must meet the following qualifications:

(A) Must be adjacent to the advertised vehicle depicted or stated in a clear and conspicuous level in any broadcast medium; and

(B) Asterisks (*) may only be used to give additional information about a

word or phrase.

(2) In any advertisement:

(A) The motor vehicle shall be clearly identified as to:

(i) Year;

(ii) Make;

(iii) Model; and

(iv) Commonly accepted trade, brand, or style name; and

(B) The advertisement must clearly define the vehicle as a new, used, demonstrator, leased, rental, factory off-lease, loaner, executive/official, or factory program vehicle.

(3) When advertising a new motor vehicle, the use of stock numbers will not preempt the requirements of full disclosure.

(4) Advertising conditions involving a change in the monthly payments or graduated payments must be of the same size in print advertisements and given the same prominence in all other mediums and shall not be referenced by an asterisk.

Authority. Arkansas Code § 23-112-204.

Codification Notes. "DBA" means doing business as.

23 CAR § 410-304. Manufacturer advertising for new, used, and/or leased vehicles.

(a) Manufacturers must comply with this subpart on advertising.

(b) The suggested retail price of a new motor vehicle when advertised by a manufacturer or distributor shall include the following:

(1) All charges, except:

(A) Destination charges;

(B) Dealer service and handling fees; and/or

(C) State or local sales taxes; and

(2) Such advertising shall state that dealer service and handling fees and/or

state or local sales taxes are excluded.

(c) It shall be unlawful for any manufacturer or distributor to advertise a rebate, refund, discount, or other financial incentive paid by, financed by, or contributed by the dealer selling the motor vehicle, unless such advertising discloses clearly and discernibly the following: "The dealer's contribution may affect the final negotiated price of the motor vehicle."

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-305. Prohibited statements and advertising techniques.

The following statements or advertising techniques are presumptively false and misleading, and the burden of proving otherwise shall be on the advertiser/licensee:

(1)(A) Statements using abbreviations or shortened terms for words or initials for groups of words not commonly understood, including, but not limited to, "FTB", "A/R", "TOP", and "POF" must not be used.

(B) Commonly understood abbreviations, including, but not limited to, "2 DR", "AM/FM", "APR", "WAC", "DEMO", and "EXEC" may be used;

(2) Statements such as "write your own deal", "name your own price", "pick your monthly payments", "appraise your own motor vehicle", or statements with similar meaning are obviously untrue and shall not be used;

(3) No statement or advertisement shall be worded to imply that because of large sales volume, a dealer is able to purchase motor vehicles for less than another dealer selling the same line-make of vehicles;

(4)(A) No motor vehicle advertisement shall contain the following statements or terms:

(i) Cost;

(ii) Percent or dollars over or under:

(a) Cost;

(b) Invoice; or

(c) Profit;

- (iii) Profit or invoice;
- (iv) Take over payments;
- (v) Fleet pricing;
- (vi) Wholesale;
- (vii) X pricing;
- (viii) Employee pricing; or
- (ix) Terms with similar meaning.

(B) However, a dealer may utilize the phrase "employee pricing" or terms with similar meaning only when the event is a manufacturer sponsored campaign that is available to all dealers of that line-make;

(5)(A) A used vehicle shall not be advertised in a manner that creates the impression it is new.

(B) Product nameplates and/or logos of any franchise line-make shall not be used in an advertisement that is a "used only" vehicle advertisement;

(6) The following statements or terms "sale", "discount", "savings", "price cut", "reduced", "clearance", "tent sale", and other similar terms, without clearly and conspicuously disclosing that such "clearance" or other such terms are limited to certain vehicles and/or specific dates of the sale if it is a limited-time offer;

(7) Using any advertising statements or terms such as "closing out sale", "lost our lease sale", "forced to vacate sale", or similar terms used to imply a court-ordered closure or to induce a belief that upon disposal of the stock of goods on hand, the business will cease and be discontinued at the premises where the sale is conducted, unless such is the case;

(8) Statements such as "sales tax paid" or terms with similar meaning shall not be used, unless it is truly paid by the dealer and not financed or added to the price of the vehicle;

(9)(A) Statements or terms implying a vehicle has been "repossessed" from an immediate former owner.

(B) Neither shall a dealer advertise that a purchaser will be receiving benefits on an existing loan on a vehicle when no such benefit exists;

(10)(A) Statements such as "big volume buying power", "manufacturer's outlet", "factory-authorized outlet", "factory sale", "factory approved", "factory wholesale outlet", or terms with similar meaning shall not be used.

(B) Any term or statement that gives the consumer the impression the dealer has a special arrangement with the manufacturer or distributor as compared to similarly situated dealers is misleading and shall not be used;

(11) "Double rebates", "triple rebates", or any other amount of rebates that are not truly offered by the manufacturer are prohibited;

(12)(A) The statement "no reasonable offer refused", shall not be used because what may be reasonable to the dealership may not be reasonable to the consumer.

(B) As a result, the statement is almost impossible to prove;

(13) Terms or phrases that may be unfamiliar to a consumer must be fully defined in the advertisement; and

(14) Statements offering a specific trade-in allowance, i.e., "\$2,500 minimum trade-in", or a range of amounts for trade-ins, e.g., "up to \$1,000" or "as much as \$1,000", including, without limitation, that the trade-in will be valued at a specific amount or guaranteed minimum amount.

Authority. Arkansas Code § 23-112-204.

Codification Notes. "2 DR" means two-door.

"A/R" means after rebate

"AM/FM" means the amplitude modulation (AM) and frequency modulation (FM) modulated signals for radio.

"APR" means annual percentage rate.

"DEMO" means demonstrator vehicle.

"EXEC" means executive vehicle.

"FTB" means first time buyer.

"POF" means proof of funds.

"TOP" means total of payments.

"WAC" means with approved credit.

23 CAR § 410-306. Required disclosures for credit term and lease advertisements.

(a) Closed-ended credit term advertising.

(1) The Federal Reserve System and the Federal Trade Commission are two
(2) agencies involved with the enforcement of federal Regulation Z.

(2)(A) If an advertisement promoting closed-end credit sale on a motor vehicle purchase contains any of the following terms:

(i) The amount of the down payment expressed either as a percentage or dollar amount;

(ii) The amount of any payment expressed as a percentage or dollar amount;

(iii) The number of payments;

(iv) The period of repayment; or

(v) The amount of any finance charge.

(B) Then the following terms must be disclosed:

(i) Amount or percentage of down payment;

(ii) Terms of repayment; and

(iii) Annual percentage rate, using the term or the abbreviation "APR".

(b) Lease advertising.

(1) The word "lease" or "smart buy" must appear in a prominent position in the advertisement.

(2) Advertising that involves consumer leases falls under federal Regulation M.

(3)(A) If an advertisement promoting a consumer lease on a motor vehicle contains any of the following terms:

(i) The amount of any payment; or

(ii) A statement of any capitalized cost reduction or other payment required prior to or at consummation or delivery.

(B) Then the following terms must be disclosed:

(i) That the advertised transaction is a lease;

(ii) The total amount due prior to or at consummation or delivery;

(iii) The number, amounts, and due dates or periods of scheduled payments;

(iv) A statement of whether or not a security deposit is required; and

(v) A statement that an extra charge may be imposed at the end of the lease term where the lessee's liability, if any, is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

(c) Open-ended credit terms.

(1)(A) Examples of open-end credit are bank and gas company credit cards and stores' revolving charge accounts.

(B) In open-end credit, the creditor reasonably expects the customer to make repeated transactions.

(2) The triggering terms for open-ended credit are:

(A) Statement of when the finance charge begins to accrue, including any "free ride" period, if any;

(B) Statement of either the periodic rate used to compute the finance charge or the annual percentage rate;

(C) The method of determining the balance on which a finance charge

may be imposed;

(D) The method of determining the finance charge, including a description of how any finance charge other than the periodic rate will be determined;

(E) The amount of any charge, other than the finance charge, that may be imposed as part of the plan; and

(F) The fact that the creditor will acquire a security interest.

(3) The required disclosures are:

(A) Any minimum, fixed, transaction, activity, or similar charges that could be imposed;

(B) Any periodic rate that may be applied, expressed as an "annual percentage rate";

(C) If the plan provides for a variable periodic rate, that fact must be stated; and

(D) Any membership or participation fee.

Authority. Arkansas Code § 23-112-204.

Codification Notes. Regulation Z referred to in this section is codified at 12 C.F.R. pt. 226.

Regulation M referred to in this section is codified at 12 C.F.R. pt. 213.

Subpart 4. Facility Requirements for Locations Licensed by the Commission

23 CAR § 410-401. Facility requirements for locations licensed by the commission.

(a) **General requirements.**

(1)(A) Must be a building permanently affixed and anchored to a foundation system.

(B) A tent or temporary stand is not deemed permanent.

(2) May not be shared with a residence or another business unrelated to motor vehicles.

(3) Must have electrical service.

(4) Must have adequate sanitary facilities (restroom).

(5) New motor vehicle dealers license must be prominently displayed and in public view.

(6) Hours of operation posted at the licensed facility must have hours of operation to include at a minimum of three (3) days per week for a continuous four (4) hours per day between 8:00 a.m. and 9:00 p.m.

(7) Must have an office area capable of storing all transaction documents safely and in a manner to provide ease of access for inspection of these documents.

(b) Facility signage.

(1) A sign shall be permanently affixed on the premises of the facility.

(2) The sign must be visible from the road and clearly and specifically identify the business.

(c) Display area.

(1) Must have a dedicated display area inside the building.

(2) Display area must be a minimum of one hundred twenty square feet (120 sq. ft.) with enough dedicated space to display at least two (2) or more new motor vehicles.

(d) Service and parts area.

(1) Must have a dedicated service and parts area inside the building.

(2) Minimum one hundred twenty square feet (120 sq. ft.) of useable service area.

(3) The area should be arranged with adequate space to repair and service at least one (1) vehicle with access to:

(A) Tools;

(B) Replacement parts; and

(C) Service equipment.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-402. Facility requirements for branch locations licensed by the commission.

(a) **Branch name.** The name used on signage at the branch location and in advertisements for the branch location:

(1) May not include any portion of the franchise name used at the primary location; and

(2) May not include product nameplates and/or logos.

(b) **Geographical location.**

(1) A new motor vehicle dealer may obtain a license to operate a branch location.

(2) The branch location must be within the dealer's relevant market area as defined in Arkansas Code § 23-112-103 or within the market area specified in the licensee's franchise agreement, whichever is greater.

(c) **Product sold.**

(1) Only used vehicles may be displayed and sold at the branch location.

(2) No new motor vehicles or demonstrators of any brand may be displayed or sold at the branch location.

(d) **Sales facilities.**

(1) There must be a permanent building from which sales are conducted.

(2) Records of sales transactions may be kept at the dealer's primary location.

(e) **Service facilities.** The branch location is not required to have service facilities on the premises.

Authority. Arkansas Code § 23-112-204.

Subpart 5. Limitations of Sales of New Motor Vehicles

23 CAR § 410-501. Limitations.

(a) A new motor vehicle dealer will be licensed only after the Arkansas Motor Vehicle Commission is provided with a signed copy of the contract between the dealer and manufacturer or distributor which specifies:

(1) The line-make or line-makes which may be displayed and offered for sale;
and

(2) That the dealer's physical facilities:

(A) Meet or exceed the minimum requirements of the manufacturer or distributor; and

(B) Meet the requirements of the Arkansas Motor Vehicle Commission Act, Arkansas Code § 23-112-302(e)(1) and (2).

(b)(1) The contract may be in the form of a:

(A) Franchise agreement;

(B) Dealer sales and service agreement; or

(C) Letter of intent.

(2) A letter of intent may be used only if upon execution of a subsequent, final, or amended contract, a copy of the complete contract is provided to the commission within thirty (30) days of the date the contract is executed.

(c) If, after licensing, the terms of the contract between the dealer and the manufacturer or distributor change, a copy of the new contract must be provided to the commission within thirty (30) days of the date the contract is executed.

(d)(1) Specialty vehicles are exempt from rules and licensure by the commission.

(2) The Arkansas Motor Vehicle Commission Act defines specialty vehicles and authorizes the commission to add by rule additional vehicles to the list of specialty vehicles.

(3) Pursuant to its authority to define specialty vehicles in Arkansas Code § 23-112-103, the commission has determined that the following vehicles are specialty vehicles which are exempt from rules by the commission:

(A) Garbage trucks;

(B) Ambulances;

(C) Fire trucks;

(D) Limousines;

(E) Hearses;

(F) Wheeled trolleys;

(G) Wreckers;

(H)(i) Unassembled motor vehicles such as kits or packaged and sold unassembled.

(ii) "Unassembled" means requiring the ultimate purchaser to assemble the vehicle by attaching the engine and/or drive train to the frame.

(iii) Motor vehicles such as kits or packaged vehicles assembled prior to sale do not qualify under this part as a "specialty vehicle";

(I) Any two-wheeled motorized vehicles having a top-rated speed of sixteen miles per hour (16 mph) or less;

(J)(i) Farm implements defined as a vehicle or implement solely usable for the purpose of agriculture or husbandry and not for the transportation of a person or persons or materials from one (1) point to another.

(ii) Tractors, combines, and other similar limited-purpose vehicles are farm implements;

(K)(i) Construction implements defined as a vehicle or implement solely usable for the purpose of construction and not for the transportation of a person or persons or materials from one (1) point to another.

(ii) Backhoes, bulldozers, and other similar limited-purpose vehicles are construction implements;

(L) Gas scooters, electric scooters, and cycles having a top-rated speed of sixteen miles per hour (16 mph) or less;

(M) Go-carts, dune buggies, or similar type vehicles having:

(i) A one hundred fifty cubic centimeter (150cc) motor or less;

(ii) A twelve and one half horsepower (12 ½ hp) engine

displacement; or

(iii) A one hundred fifty cubic centimeter (150cc) or less engine;

(N) Nonaltered golf carts of the type designed and commonly approved

for use on all golf courses:

(i) Having nonaggressive tread tires and limited purpose capabilities;

and

(ii) With a designed use limited to the transport of persons and equipment, such as golf clubs, used in playing games of golf;

(O) Lawnmowers;

(P) Airplanes;

(Q) Trains;

(R) Motorized skateboards; and

(S) Segways and personal transportation vehicles designed solely for the purpose of transport of mobility impaired individuals.

(4) All models and/or types of vehicles are subject to individual review by the commission to determine whether or not they qualify under the "specialty vehicle" exemptions of this part.

(5) Any person or persons possessing new motor vehicles removed from "specialty vehicle" status by an amendment to this part, and whose vehicles were exempted from licensure ninety (90) days prior to the amendment shall, without penalty, have thirty (30) days after the effective date of the amendment to:

(A) Obtain a license as a new motor vehicle dealer pursuant to Arkansas Code § 23-112-302; or

(B) Dispose of all affected new motor vehicles.

Authority. Arkansas Code §§ 23-112-103, 23-112-204.

Subpart 6. Licensing Dealer Leasing Activities

23 CAR § 410-601. Licensing dealer leasing activities.

(a) A new motor vehicle dealer conducting a leasing business at a location licensed for the sale of new motor vehicles and as a part of the same business entity, whether a proprietorship, partnership, corporation, or any other entity, shall not be required to

obtain a motor vehicle lessor's license.

(b) A leasing business conducted as part of a separate business entity or at an unlicensed location shall be separately licensed as a motor vehicle lessor.

(c) Motor vehicle lessors licensed by the Arkansas Motor Vehicle Commission shall lease vehicles from licensed locations.

Authority. Arkansas Code § 23-112-204.

Subpart 7. Off-premises Sales, Displays, and/or Events

23 CAR § 410-701. Off-premises sales, displays, and/or events —

Generally.

(a) Off-premises sales, displays, and/or events:

(1) Are strictly prohibited except as provided in this part;

(2) Are permitted after prior written approval is obtained from the Arkansas Motor Vehicle Commission; and

(3) May include used motor vehicles owned by new motor vehicle dealers.

(b) A dealer shall obtain an off-premises permit to offer and/or sell motor vehicles away from the dealer's licensed place of business.

(c) Off-premises sales, displays, and/or events shall be considered a privilege and should not be abused.

(d) Sponsor or sponsors of an off-premises sale, display, and/or a manufacturer or distributor event who violate any portion of this part shall be subject to all remedies available pursuant to the Arkansas Motor Vehicle Commission Act, Arkansas Code § 23-112-101 et seq., and the rules promulgated thereunder.

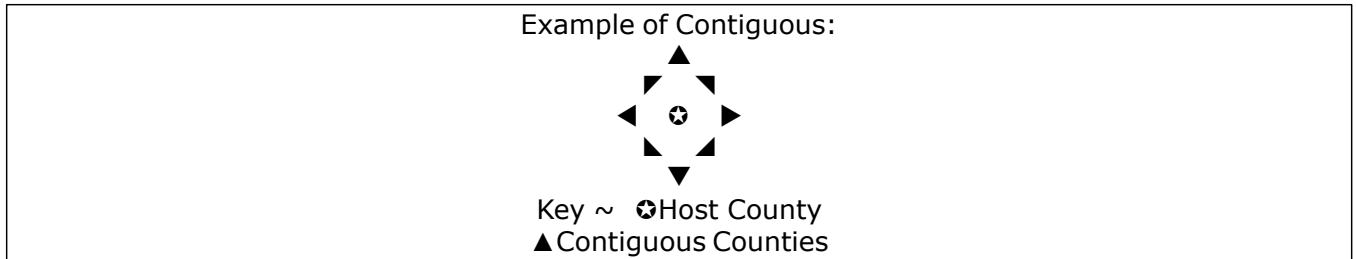
(e) Off-premises sales are limited one (1) per quarter.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-702. Definitions.

As used in this subpart:

- (1) "AMVC" means the Arkansas Motor Vehicle Commission;
- (2) "Contiguous" means counties bordering or sharing a common border with the host county;



(3) "Dealer" means a new motor vehicle dealer licensed by the Arkansas Motor Vehicle Commission;

(4) "Dealer organization" or "association" means a state or local trade association, the membership of which is comprised predominantly of motor vehicle dealers;

(5)(A) "Display" means vehicles are present.

(B) Dealer personnel, sales, and solicitations are prohibited;

(6) "Event" means a show to display vehicles for the general public to review and inspect a manufacturer's or distributor's new motor vehicles;

(7) "Host county" means the county in which the off-premises sale is conducted;

(8)(A) "Line-make" is a particular make of vehicles for which a franchise or contract is held and offered for sale.

(B) Examples:

- (i) Chevrolet;
- (ii) Harley Davidson;
- (iii) Honda ATV; or
- (iv) Fleetwood;

(9) "Local dealer" means a new motor vehicle dealer whose established place

of business at which he or she is licensed by the Arkansas Motor Vehicle Commission is physically located in the host county;

(10) "Manufacturer or distributor event" means an event conducted by a manufacturer or distributor at a public venue for attracting potential dealers and/or consumers to its product line;

(11)(A) "Model line" is a particular model of vehicle within a "line-make."

(B) Examples:

(i) Fleetwood is the line-make and model lines are:

(a) Pace Arrow;

(b) Pace Vision; and

(c) Southwind; and

(ii) Chevrolet is the line-make and model lines are:

(a) Silverado;

(b) Corvette; and

(c) Suburban;

(12) "Off-premise sale" means a motor vehicle show in which personnel are present and sales are permitted;

(13) "Public venue" means, when used in conjunction with "off-premises sale" or "off-premises display", a location which:

(A) Is open to the general public whether or not an admission fee is charged; and

(B) Is not a new motor vehicle dealership licensed by the Arkansas Motor Vehicle Commission or a used motor vehicle lot licensed by the Division of Arkansas State Police;

(14) "Qualified dealer" means a new motor vehicle dealer from a contiguous county who has both a franchise agreement or other contract from a manufacturer or distributor and a license or temporary permit from the Arkansas Motor Vehicle Commission to sell any product line-makes in the host county that he or she makes available for sale at an off-premises sale;

(15) "Qualified manufacturer or distributor" means a manufacturer or

distributor licensed by the Arkansas Motor Vehicle Commission for the product line they wish to promote;

(16) "Reciprocity agreement" is an agreement between the State of Arkansas and another state allowing out-of-state dealers to participate in off-premises sales in Arkansas and allowing Arkansas dealers to participate in off-premises sales in that state;

(17) "Sponsor" means the entity conducting the off-premises sale, such as promoter, private business, trade association, or dealer association to promote member products or a manufacturer or distributor;

(18) "Sufficient representation" means a sufficient number of dealers selling all line-makes and manufacturers, whether or not those dealers participate in the off-premises sale; and

(19) "Temporary permit" is a permit or license issued by the Arkansas Motor Vehicle Commission allowing an out-of-state dealer to participate in an approved off-premises sale for a period not to exceed seven (7) consecutive days.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-703. Obtaining approval to conduct off-premises sales.

(a) In order to obtain approval to sponsor an off-premises sale for new motor vehicle dealers, a sponsor must:

(1) Invite all local new motor vehicle dealers to participate in the off-premises sale; and

(2)(A) Submit the request to conduct an off-premises sale for approval to the Arkansas Motor Vehicle Commission on the form provided by the commission office at least forty-five (45) days prior to opening day of the off-premises sale.

(B) The forty-five-day requirement may be waived by the Director of the Arkansas Motor Vehicle Commission for good cause shown.

(C) Attached to the request form shall be:

(i) A list of all dealers to whom invitations have been extended, with

the address, telephone, and the name of the contact person;

(ii) A list of all line-makes to be offered at the off-premises sale;

(iii) A statement signed by the sponsor assuring that adequate space will be made available for all invited dealers;

(iv) A sample:

(a) Notice;

(b) Invitation; or

(c) Registration form;

(v) Two (2) tickets to the off-premises sale, if there is an admission fee;

(vi) If approval is obtained, a copy of the approved form from the commission must be forwarded to each participant.

(b) In order to obtain approval to sponsor an off-premises sale for used motor vehicles of new motor vehicle dealers or commission-licensed branches, a sponsor must:

(1) Invite all local new motor vehicle dealers or their commission-licensed branches to participate in the off-premises sale;

(2)(A) Submit the request to conduct an off-premises sale for approval to the commission on the form provided by the commission office at least forty-five (45) days prior to opening day of the off-premises sale.

(B) The forty-five-day requirement may be waived by the director for good cause shown.

(C) Attached to the request form shall be:

(i) A list of all new motor vehicle dealers and/or their commission-licensed branches to whom invitations have been extended, with the address, telephone, and name of the contact person;

(ii) A statement signed by the sponsor assuring that adequate space will be made available for all invited new motor vehicle dealers and/or the commission-licensed branches;

(iii) A sample:

- (a) Notice;
- (b) Invitation; or
- (c) Registration form;
- (iv) Two (2) tickets to the off-premises sale, if there is an admission fee; and
- (v) If approval is obtained, a copy of the approved form from the commission must be forwarded to each participant; and

(3) Each off-premises sale of used motor vehicles conducted by a new motor vehicle dealer or an commission-licensed branch, must be advertised under that specific new motor vehicle dealer's corporate name, the DBA name reflected on the commission license or the commission-licensed branch name reflected on the commission license, and all documents utilized in the sale of a used motor vehicle must be recognizable to the prospective purchaser as to specific dealer origin.

Authority. Arkansas Code § 23-112-204.

Codification Notes. "DBA" means "doing business as".

23 CAR § 410-704. Conducting off-premises sales, displays, and/or events.

(a) The sponsor must conduct the off-premises sale of new and/or used motor vehicles in compliance with:

(1) The Arkansas Motor Vehicle Commission Act, Arkansas Code § 23-112-101 et seq.;

(2) The rules of the Arkansas Motor Vehicle Commission; and

(3) All other applicable laws of the State of Arkansas.

(b) Off-premises sales may not be conducted for more than seven (7) days.

(c) A dealer may not utilize franchised logos of a product line for which the dealer is not licensed by the commission.

(d) Franchised logos or trademarks shall not be used at off-premises sales that are

confined to used vehicles.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-705. Participation by qualified dealers.

(a) Qualified dealers may be invited to participate in an off-premises sale provided that:

(1) The sponsor obtains written approval from the Director of the Arkansas Motor Vehicle Commission;

(2) A reciprocity agreement has been executed between the State of Arkansas and the state in which the contiguous county is located and such agreement is on file in the commission office; and

(3) Qualified dealers must adhere to all requirements of this subpart, Off-premises Sales, Displays, and Events.

(b)(1) Any qualified out-of-state dealer shall:

(A) Submit an application provided by the commission office; and

(B) Meet all requirements of 23 CAR § 410-702(14).

(2) A fee for a temporary permit must be paid:

(A) For an out-of-state motor vehicle dealer, one hundred dollars (\$100);

(B) For a manufacturer or distributor, two hundred fifty dollars (\$250);

and

(C) For a factory representative or distributor representative, fifty dollars (\$50.00).

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-706. Inviting qualified dealers from contiguous counties — Specific industry guidelines.

(a) **Automobile/truck.**

(1) If there are no automobile or truck dealers in the host county, all qualified

dealers in contiguous counties must be invited to participate.

(2) If there is even one (1) automobile or truck dealer in the host county, no dealers from outside the host county may be invited to participate.

Example 1: There are no automobile or truck dealers in the host county. All qualified dealers in contiguous counties shall be invited to participate.

Example 2: There is only one (1) dealer, a GMC truck dealer, in the host county. No dealers from contiguous counties may be invited to participate.

(b) All-terrain vehicle, motorcycle, scooter, etc.

(1) Dealers from contiguous counties may be invited to participate in an off-premises sale provided there is no local dealer selling the manufacturer's product line sold by the dealer in the contiguous county.

(2) If a sponsor invites any qualified dealers located in contiguous counties, the sponsor shall invite all qualified dealers located in contiguous counties, except those who are not eligible to participate because a local dealer sells the same manufacturer's product line.

Example 1: There are three (3) dealers in the host county, Honda, Suzuki, and Polaris. There is no Yamaha dealer. Yamaha dealers from contiguous counties may be invited to participate in the sale. Qualified dealers in contiguous counties selling all other manufacturers' product lines, except the lines sold by the three (3) local dealers, may also be invited to attend.

Example 2: There are only two (2) dealers in the host county. They sell Yamaha and Suzuki motorcycles. The Yamaha dealer

participates in the sale, and the Suzuki dealer does not. No Yamaha or Suzuki dealer in a contiguous county may be invited to participate in the sale.

Example 3: Sponsor may choose to limit the sale to certain types or a combination of types of vehicles.

(c) Recreational vehicle.

(1) If there are no local dealers who sell a certain manufacturer's model line products, qualified dealers in contiguous counties who sell that manufacturer's model line products may be invited to attend.

(2) If a sponsor invites any qualified dealers located in contiguous counties, the sponsor shall invite all qualified dealers located in contiguous counties, except those who are not eligible to participate because a local dealer sells the same manufacturer's model line product.

(3) A statewide show may be held if the following conditions are met:

(A) The sponsor must obtain signed favorable sanction from a majority of licensed RV dealers in the state; and

(B) Manufacturer model lines represented in the host county may not be sold or displayed without prior written approval from the host county dealer or dealers.

Example 1: There is a Fleetwood dealer in the host county who has a franchise agreement and license for Southwind and Pace Arrow model lines. No Fleetwood dealers from contiguous counties with the same model lines may be invited to participate in the sale, whether the local Fleetwood dealer participates or not.

Example 2: There are Fleetwood and Thor dealers in the host county. The Thor dealer participates in the sale, and

the Fleetwood dealer does not. No Fleetwood or Thor dealer in a contiguous county may be invited to participate in the sale with the same model line as host county dealer, unless written approval is received from the host county dealer.

Authority. Arkansas Code § 23-112-204.

Codification Notes. "RV" means recreational vehicle.

23 CAR § 410-707. Displays.

Dealers may display new motor vehicles at locations other than that for which a license is held, provided:

- (1) Arkansas Motor Vehicle Commission approval has been granted;
- (2) A Display Request Form is on file at the commission office;
- (3) Dealer personnel shall not be present;
- (4) Sales and solicitations are prohibited;
- (5) Displays are within dealer's relevant market area as defined in the franchise agreement or sales and service agreement on file in the commission office or as defined by Arkansas Code § 23-112-103 et seq., whichever is greater; and
- (6) Vehicles are the line-make or model line for which license is held.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-708. Exceptions for new automobiles and truck sales and/or displays and used vehicle sales.

(a) **New and used vehicle displays.** A new motor vehicle dealer licensed by the Arkansas Motor Vehicle Commission may display not more than five (5) new vehicles per franchise held without obtaining prior written approval from the commission as long as:

- (1) The display is at a public venue and within the licensed dealer's relevant

market area; and

(2) No sales or management personnel are present nor sales solicitations made.

(b) **Used vehicle sales.** A new motor vehicle dealer licensed by the commission may conduct off-premises sales of used motor vehicles, without obtaining prior written approval from the commission as long as:

(1) The sale location is at a public venue within the geographical limits of the licensed dealer's relevant market area; and

(2) No new vehicles are displayed or offered for sale.

(c)(1) Sponsored sales of new or used automobiles or trucks by a regional dealer association representing no more than two (2) contiguous counties may request a variance from the commission to allow dealers from outside the host county to be invited and participate in the off-premises sale and/or event.

(2) Any dealer in the host county has the right to enforce its franchise agreement and refuse to allow a dealer carrying the same franchise line to be invited or to participate in the off-premises sale and/or event.

(3) In order to obtain approval for this exception, the following qualifications must be met:

(A)(i) The request must be sent to the commission forty-five (45) days prior to the opening day of the event.

(ii) The forty-five-day requirement may be waived by the Director of the Arkansas Motor Vehicle Commission for good cause shown;

(B)(i) The sale and/or event sponsor must invite all new automobile or truck dealers in the two (2) contiguous counties.

(ii) A majority of dealers from both counties must agree to the sponsored sale occurring in the two-county region, and proof must be provided to the commission of this agreement;

(C) The following must be provided to the commission forty-five (45) days prior to the opening day of the event:

(i) A list of all new motor vehicle dealers to whom invitations have

been extended, with the address, telephone, and name of the contact person;

(ii) A statement signed by the sponsor assuring that adequate space will be made available for all invited new motor vehicle dealers and/or the commission-licensed branches;

(iii) A sample:

(a) Notice;

(b) Invitation; or

(c) Registration form;

(iv) Two (2) tickets to the off-premises sale, if there is an admission fee; and

(v) If approval is obtained, a copy of the approved form from the commission must be forwarded to each participant.

(d) **Promotions or contests.** A person or entity who promotes a dealer's product to be used in promotions or contest shall:

(1) Use dealership's products in promotions as a means of attracting attention or participation in a promoter's event;

(2) Identify the dealer only by means of notation in all promotions and advertisements, by stating, "vehicle provided courtesy of (name of dealership)" or similar language;

(3) Ensure the promoter's notation identifying the dealership is the smallest print in the promotional or advertisement material;

(4) Ensure the dealer providing the vehicle remove all dealer-identifying items;

(5) Ensure all federal- and state-required information be left on the vehicle;

and

(6) Ensure no dealer personnel are present during the promotion or contest.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-709. Manufacturer or distributor event or events.

(a)(1) Events may be conducted by a qualified manufacturer or distributor provided

the following qualifications are met:

(A) The event is held at a public venue;

(B) If the event promotes any dealer of its franchise line at the event, the manufacturer or distributor shall promote all of its franchise dealers licensed by the Arkansas Motor Vehicle Commission; and

(C) The requesting manufacturer or distributor has not had its event privileges suspended or revoked by the commission or the Director of the Arkansas Motor Vehicle Commission.

(2)(A) In order to obtain approval for a manufacturer or distributor event, the manufacturer or distributor must submit the request to conduct any manufacturer or distributor event for approval to the commission on the form provided by the commission office at least forty-five (45) days prior to opening day of the event.

(B) The forty-five-day requirement may be waived by the director for good cause shown.

(C) Attached to the request form shall be:

(i) A list of all dealers the manufacturer or distributor will be promoting;

(ii) A sample notice, invitation, or registration form;

(iii)(a) Two (2) tickets to the event, if there is an admission fee.

(b) A letter of admittance is allowed as well, although commission representatives may attend at any time with or without admission; and

(iv) If approval is obtained, a copy of the approved form from the commission must be forwarded to each participant.

(3) Events may be held in conjunction with an approved off-premises sale, provided:

(A) The off-premises sale is conducted in accordance with this part;

(B) No off-premises sale, held in conjunction with a manufacturer or distributor event, may be exclusive to the manufacturer's or distributor's franchise dealers; and

(C) The manufacturer or distributor does not sell, advertise for sale, or

offer for sale any motor vehicle to a consumer.

(b) Any person or entity found to be in violation of this section shall be subject to all remedies available pursuant to the Arkansas Motor Vehicle Commission Act, Arkansas Code § 23-112-101 et seq., and the rules promulgated thereunder.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-710. Manufacturer allowed new motor vehicle displays.

If the purpose of the show is to display vehicles for the general public to review and inspect a manufacturer's or a distributor's new motor vehicle or vehicles, whether or not a Arkansas Motor Vehicle Commission license is held by the entity, and the display is held at a public location in conjunction with a sponsored off-premises sale, the following guidelines must be met in order for permission to be given:

(1)(A) Submit the request to conduct an off-premises sale for approval to the commission on the form provided by the commission office at least forty-five (45) days prior to opening day of the off-premises sale.

(B) The forty-five-day requirement may be waived by the Director of the Arkansas Motor Vehicle Commission for good cause shown.

(C) Attached to the request form shall be:

(i) The location and date or dates of the off-premises sale;

(ii) A statement that the vehicle or vehicles will belong to the manufacturer;

(iii) A statement that there will be no signs or written reference in the event area identifying any dealers; and

(iv) A statement that no sales activity will take place;

(2)(A) A manufacturer may display its vehicles at its manufacturing plants without requesting permission from the commission to hold such an event.

(B) However, a manufacturer cannot have a new motor vehicle display of vehicles assigned to area dealers at its plants or facilities;

(3)(A) Permission will be granted in the form of a letter.

(B) The sponsor of the off-premises sale is required to provide a copy of the Off-Premises Sale Request form to all participants; and

(4) Manufacturer or distributor personnel may be present.

Authority. Arkansas Code § 23-112-204.

23 CAR § 410-711. Cancellation, suspension, or termination of off-premises sale and/or display grounds.

(a)(1) The Director of the Arkansas Motor Vehicle Commission may suspend, cancel, or terminate:

(A) An off-premises sale;

(B) An off-premises display; and

(C) A manufacturer or distributor display or event.

(2) The director may also issue an immediate termination order of an off-premises sale, off-premises display, manufacturer or distributor display, if the director determines that the licensee or sponsor:

(A) Has made a material misrepresentation or misstatement in the licensee's or sponsor's request for an off-premises sale or display approval;

(B) Has used or is using any false advertising as defined by Subpart 3 of this part, Advertising;

(C) Has violated or is violating a law of this state or a rule adopted by the commission pursuant to law;

(D) Is conducting an off-premises sale, off-premises display, manufacturer or distributor display or event without permission; or

(E) Is conducting business in Arkansas without a license as required in Arkansas Code § 23-112-301.

(b)(1) If the director determines that the licensee or sponsor has failed to obtain an off-premises sale or display permit, or has failed to comply with the cancellation, suspension, or termination, the director may suspend the privilege of obtaining subsequent off-premises sale and display permits for a period of one (1) year from the

date of suspension.

(2) Any person or licensee refusing to obey the order shall be in violation of this part.

(3) Any person violating this section shall be subject to any and all remedies available pursuant to the Arkansas Motor Vehicle Commission Act, Arkansas Code § 23-112-101 et seq., and rules promulgated thereunder.

Authority. Arkansas Code § 23-112-204.

Subpart 8. Dealer Service and Handling Fees

23 CAR § 410-801. Fees and disclosures.

(a) Pursuant to Arkansas Code § 23-112-317(c)(1) the Arkansas Motor Vehicle Commission shall determine the amount of the dealer service or handling fee, and that fee shall be no less than zero dollars (\$0) and no more than one hundred twenty-nine dollars (\$129).

(b)(1) The amount that an Arkansas dealer may charge for dealer service and handling fees, allowed by Arkansas Code § 23-112-317(d) is not to exceed one hundred twenty-nine dollars (\$129).

(2) The fee, if charged, must be charged uniformly to all retail customers.

(c) In no instances shall the allowed fee, as mentioned above, be disclosed to the purchaser, represented verbally, or represented in any manner or medium as being mandated by any other entity other than the dealership charging the fee.

(d)(1) If a dealer service and handling fee is charged, the motor vehicle dealer must follow the procedures for disclosure set out in the subdivision (e)(3) of this section when charging any consumer a dealer service and handling fee, as provided for in this section.

(2) The motor vehicle dealer must disclose, to any consumer, the following information in written form:

(A) The amount of the fee; and

(B) Notice in type that is bold-face, capitalized, underlined, or otherwise conspicuously set out from the surrounding written material as listed in subdivision (e)(3) of this section.

(e)(1) If a dealer service and handling fee is charged, the dealer shall prominently display a poster or sign measuring at least eight inches by ten inches (8" x 10") in the finance and insurance office or in any area sales document processes are conducted.

(2) The poster or sign shall include the following information:

(A) The dealership charges a dealer service or handling fee;

(B) The amount of the fee;

(C) The required notice as stated in Arkansas Code § 23-112-317(d)(2).

(3)(A) The required notice shall be in a common font (Times Roman or Arial) and at least fifty-five (55) point size.

(B) The portion of the notice which includes the statute Arkansas Code § 23-112-317(d)(2) shall be in a common font (Times Roman or Arial) and at least twenty-four (24) point size.

(C) The full area of the poster or sign must be utilized.

(D) An example is provided by the commission at www.amvc.arkansas.gov or upon request.

Authority. Arkansas Code §§ 23-112-204, 23-112-317.

Subpart 9. Delivery Prior to Sale/Spot Delivery

23 CAR § 410-901. Required disclosures.

(a) Disclosures in the following language, in order and sequence, must be used in all agreements for delivery prior to sale of any motor vehicle unless excluded by this part:

AGREEMENT FOR DELIVERY PRIOR TO SALE

These disclosures are required by Arkansas Code § 23-112-316 and will be incorporated into your contract for sale to purchase a motor vehicle.

A. IMPORTANT NOTICE: The papers you are signing as part of this motor vehicle sale are legal documents. You should read them carefully and if there is anything you do not understand you should seek legal assistance. This agreement is not a contract for sale.

_____ Buyers Initials

B. WARNING: Only the terms and conditions written into these documents are part of the contract for sale. Be sure that any oral representations are also written into these documents; otherwise they cannot be enforced.

C. This vehicle will be delivered to you prior to the approval of financing by a financial institution and prior to the execution of the contract for sale. I further understand the final contract for sale will include the following terms: the financed amount of \$ _____ at a finance rate not to exceed _____% for _____ months or a cash amount of \$ _____.

- If financing cannot be acquired at the agreed upon rate listed above, you have the right to cancel the purchase.
- If the terms are changed by the dealer you have the right to cancel the purchase.
- If the purchase is canceled for the above stated reasons, your vehicle trade in and/or your deposit must be returned to you.
- No charge or penalty can be assessed to you for canceling the purchase.
- You must return the vehicle to the dealer within 48 hours after you cancel the purchase, or it may be recovered by the dealer without

judicial process.

- You are responsible for any damages that may occur while the vehicle is in your possession.
- Proof of insurance is required.

D. Unless the consumer is approved for financing and both parties have executed a contract for sale, then the dealer shall not:

- Deposit or cash any down payment.
- Sell any motor vehicle trade in.

E. Any fraud or misrepresentation in a motor vehicle sale is punishable under Arkansas Motor Vehicle Commission Law. You may contact the Arkansas Motor Vehicle Commission at:

Arkansas Motor Vehicle Commission

900 West Capitol, Suite 400

Little Rock, AR 72201

Phone: (501) 682-1428 Fax: (501) 682-5573

Website: www.amvc.arkansas.gov or E-mail amvc@arkansas.gov

I hereby certify that I received
a copy of this disclosure.

I hereby certify that I have
given the buyer a copy of this
disclosure.

Buyer's Signature

Dealer or Agent Signature

(b) The language which appears in paragraphs A, B, C, D, and E of the required disclosures in subsection (a) of this section must appear in twelve (12) point bold face type or a size.

(c) A copy of all disclosures must be given to the purchaser when the agreement is completed.

Authority. Arkansas Code § 23-112-204.