

Title 23. Public Utilities and Regulated Industries

Chapter XIV. Division of Arkansas State Police, Department of Public Safety

Subchapter A. Generally

Part 430. Used Motor Vehicle Dealer Licensing

Subpart 1. Generally

23 CAR § 430-101. Definitions.

As used in this part, unless the context otherwise requires, the following terms are defined as:

- (1) "Act" means Acts 1993, No. 490, as it may hereafter be amended;
- (2) "Applicant" means any person who has submitted to the Division of Arkansas State Police a properly completed application for a certificate of license to conduct business under the provisions of the act;
- (3) "Application" means a form of such size and design which contains the required information, as prescribed by the act, whereas a person may apply for a certificate of license under the provisions of Acts 1993, No. 490, as amended;
- (4) "Director" means the Director of the Division of Arkansas State Police, or his or her designated representative;
- (5) "Division" means the Division of Arkansas State Police;
- (6) "Documentation" means such information as may be required by the Division of Arkansas State Police, utilized to determine an applicant's or licensee's qualifications to hold a certificate of license;
- (7) "Hearing officer" means the Director of the Division of Arkansas State Police, or his or her designated representative, acting in cases of adjudication as outlined in the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., as amended;
- (8) "License" means a certificate issued to a person by the Division of Arkansas State Police authorizing that person to conduct business under the provisions of the act and this part;

(9) "Licensee" means a person who holds a valid certificate of license as defined in subdivision (8) of this section; and

(10) "Salesman" means a person as defined in Acts 1993, No. 490, as amended.

Authority. Arkansas Code § 23-112-604.

23 CAR § 430-102. Licensee responsibilities.

(a) Any person who fails to renew the certificate of license as outlined in the act and within the guidelines of the provisions of the Office of Motor Vehicle shall be required to submit with the application for renewal a sworn affidavit attesting they have not violated any provisions of the act or this part.

(b) A licensee shall, within seven (7) calendar days, notify the Division of Arkansas State Police in writing of any change in the following:

(1) Physical address;

(2) Mailing address;

(3) Any telephone number or numbers;

(4) Any persons or entities having any ownership in the used vehicle dealership; or

(5) Any name, address, or telephone number of the person designated to receive legal process, as outlined in the act.

(c) The licensee shall be legally responsible for the good conduct in the business of each employee, including salespeople.

(d) Any person who falsely represents that he or she is employed by a licensee shall be deemed guilty of violating the provisions of Acts 1993, No. 490, as amended.

(e)(1) The Director of the Division of Arkansas State Police may issue a written order of summary suspension of a certificate of license if it is determined that the public health, safety, or welfare requires emergency action.

(2) The suspended license holder shall be afforded a hearing in a prompt and timely manner.

(f) The director shall issue an order of summary suspension to the holder of a certificate of license thirty (30) days after a judgment is entered against the licensee, and the suspension shall be in effect until proof that the judgment has been satisfied is submitted to the division.

(g)(1) The bond and insurance requirement or requirements, as outlined under the provisions of the act shall be in force at all times while holding a certificate of license.

(2) Failure of a licensee to comply with this part shall result in the certificate of license being summarily suspended by the director, and such suspension shall be in effect until said bond and insurance is submitted to the division and shown to be in full force.

(h) Persons who hold a certificate of license must use the division dealer number in published advertising as follows:

(1) AR/DLR (number); or

(2) Print the dealership name.

(i) Any person to whom a certificate of license has been granted and receives an order of suspension or revocation shall immediately, upon receipt of such notice, return all certificates of license to the division.

(j)(1) A suspended license is subject to expiration and shall be renewed as provided in the act or this part.

(2) However, renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in:

(A) The licensed activity; or

(B) Any other activity or conduct in violation of the order by which the license was suspended.

(k) It shall be unlawful for a suspended license holder to operate while the license is suspended.

(l) Violations and penalties.

(1)(A) For violations of the act and/or this part, the director may charge an applicant or licensee criminally as prescribed by Arkansas Code § 23-112-603(a)(1) – (3).

(B) In addition to or instead of charging the applicant or licensee criminally pursuant to Arkansas Code § 23-112-603(a)(1) – (3), the director may issue a fine in an amount not to exceed one thousand dollars (\$1,000) for each violation of Arkansas Code § 23-112-605.

(C) If the director fines an applicant or licensee, the director may enter into consent judgments with the applicant or licensee providing for the payment of agreed upon fines not to exceed one thousand dollars (\$1,000) per violation in lieu of a hearing and/or other administrative action.

(2) The director may deny an application for a certificate of license or its renewal or suspend or revoke a license if it is determined the applicant or licensee has:

(A) Made a material misstatement in the application for or the renewal of a license;

(B) Practiced fraud, deceit, or misrepresentation;

(C) Demonstrated incompetence or untrustworthiness in their actions; or

(D) Violated any provisions of the act and/or this part.

(m)(1) Any person to whom a certificate of license has been granted who ceases to conduct business at the location on file with the division shall notify the director, in writing, of such cessation within ten (10) calendar days.

(2) The license shall automatically be suspended and shall not be reinstated until the provisions for licensure outlined in the act or this part are met.

(n) **Fee waivers.** The division will waive the initial application fees prescribed by Arkansas Code § 23-112-608 if the applicant:

(1) Is receiving assistance through the:

(A) Arkansas Medicaid Program;

(B) Supplemental Nutrition Assistance Program;

(C) Special Supplemental Nutrition Program for Women, Infants, and Children;

(D) Temporary Assistance for Needy Families Program; or

(E) Lifeline Assistance Program;

(2) Was approved for unemployment within the last twelve (12) months; or

(3) Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

Authority. Arkansas Code §§ 23-112-601, 23-112-604.

23 CAR § 430-103. Hearing provisions.

(a)(1) The Director of the Division of Arkansas State Police shall have the authority to deny the issuance of a license.

(2) He or she shall notify the applicant of his or her decision in writing, stating the reason for the denial.

(3) The applicant may appeal the decision, provided he or she perfects the appeal, in writing, within fourteen (14) days of his or her notice of rejection.

(4) The hearing officer shall hear the appeal within sixty (60) days.

(b)(1) If, as a result of the Division of Arkansas State Police's own investigation, or as a result of any complaint against a licensee, it is determined that there exists sufficient proof that the actions of the person constitute a violation of the act or this part, the director, before taking any action, shall provide twenty (20) days' written notice to the person of his or her right to a hearing.

(2) The director, when issuing an order and notice of hearing, shall state the legal authority under which the hearing is to be held along with a brief and concise statement of the matters of fact and law involved.

(3) The order and notice shall be served on the person at least twenty (20) days prior to the hearing.

(c)(1) The director shall assign a file number to each order and notice of hearing and hereafter all documents pertaining to the matter shall bear that number.

(2) All pleadings and motions to be filed relative to the hearing shall be:

(A) Signed;

(B) Verified and dated; and

(C) Filed with the division.

(d)(1) During the course of a hearing, the division:

(A) Shall not be bound by the technical rules of evidence; and

(B) May admit and give probative value to any evidence which possesses such probative value as would entitle it to be accepted by reasonable and prudent people in the conduct of their affairs.

(2) Provided, however, the hearing officer shall give effect to the rules of privilege recognized by the law and may:

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

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

(e)(1) All evidence, including records and documents, in possession of the division of which it desires to avail itself, shall be offered and made part of the record in a hearing, and no other factual information or evidence shall be considered in the determination of any cause.

(2) Any person who is required to meet any of the qualifications under the act or this part and whose rights may be affected in any hearing shall have the right to appear personally and by counsel to:

(A) Introduce evidence on their behalf;

(B) Cross-examine witnesses; and

(C) Examine any document or other evidence submitted.

(f)(1) In any hearing held for the purpose of affording any applicant the opportunity to show his or her qualifications under the act or this part, the burden of proof shall be on the applicant.

(2) In hearings held for the purpose of revoking, suspending, or reprimanding, the burden of proof shall be on the division or complainant.

(g) Hearings shall be conducted by the hearing officer, as defined in 23 CAR § 430-101(7).

(h) Hearings shall be held at a location to be determined by the division.

(i) The hearing officer may rule in cases where the affected party fails to attend a hearing.

(j)(1) All decisions of the hearing officer shall:

(A) Be in writing and signed by the director; and

(B) Include findings of fact and conclusion of law separately stated with an appropriate order entered in accordance with.

(2) A copy of the findings of fact, conclusions of law, and order shall be sent to each party of the hearing.

(k) The division will cause to be made an official record of the proceedings.

(l) The affected party may appeal the decision of the director in accordance with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., as amended.

Authority. Arkansas Code § 23-112-604.

23 CAR § 430-104. Reciprocal, temporary, and expedited licensure.

(a)(1) An applicant who holds a used motor vehicle dealer's license in another state, territory, or district of the United States may obtain a reciprocal Arkansas license if he or she meets the requirements set forth in Arkansas Code § 23-112-607.

(2) The reciprocity applicant must submit the required forms and applicable fees.

(b)(1) An applicant for a reciprocal Arkansas license who resides in a state, territory, or district of the United States that does not require licensure to sell used motor vehicles may obtain a reciprocal Arkansas license if he or she meets the requirements set forth in Arkansas Code § 23-112-607.

(2) The reciprocity applicant must submit the required forms and applicable fees.

(c)(1) An applicant for a temporary Arkansas license may obtain a six-month temporary Arkansas license if he or she meets the requirements set forth in Arkansas Code § 23-112-607.

(2) The temporary applicant must submit the required forms and applicable fees.

(d)(1) The division will expedite the licensure process for:

(A) A uniformed service member stationed in the State of Arkansas;

(B) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or

(C) The spouse of a:

(i) Person listed in subdivision (d)(1)(A) or (d)(1)(B) of this section;

(ii) Uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; and

(iii) Uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

(2) To qualify for expedited licensure, the applicant must notate his or her status on the application and provide the division with a copy of the active-duty orders or DD Form 214.

Authority. Arkansas Code § 23-112-604.