

## **Title 23. Public Utilities and Regulated Industries**

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

#### **Subchapter A. Generally**

#### **Part 431. Used Motor Vehicle Dealers Service and Handling Fees**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "Rule 1.0 Rules Adopted. These Rules shall be known as the Used Motor Vehicle Dealers' Service and Handling Fees Rules, promulgated by the Director of the Department of the Arkansas State Police. Rule 1.1 Authority; Scope; Effective Date. These Rules are issued under the Director's authority at Ark. Code Ann. §§23-112-617(e)(Supp. 2007), et seq., as amended by Arkansas Act 366 of 2007, and Ark. Code Ann. §§12-8-104 (c)(Supp. 2007), as well as the Arkansas Administrative Procedure Act, codified at Ark. Code Ann. §§25-15-201, et seq."

"These Rules shall be effective on and after September 15, 2007."

#### **Subpart 1. Generally**

##### **23 CAR § 431-101. Scope.**

This part shall apply to all used motor vehicle dealerships which or used motor vehicle dealers who are subject to licensure by the Division of Arkansas State Police under Arkansas Code § 23-112-601 et seq.

**Authority.** Arkansas Code §§ 23-112-604, 23-112-617.

##### **23 CAR § 431-102. Definitions.**

As used in this part:

- (1) "Director" means Director of the Division of Arkansas State Police;
- (2) "Division" means the Division of Arkansas State Police;

(3) "Service and handling fee" as a term means the sums charged customers of used motor vehicle dealers upon the sale, or lease with option to purchase or own, of a used motor vehicle under Arkansas Code § 23-112-617 et seq., and which fee is customarily imposed by the used motor vehicle dealer for reimbursement of its costs and expenses in handling, processing, and storage of documents, or other clerical or administrative services, processes, and procedures, and connected with the sale, or lease with option to purchase or own, of a used motor vehicle; and

(4) "Used motor vehicle dealer" means an Arkansas motor vehicle dealer selling, or leasing with option to purchase or own, used motor vehicles to the general public under licensure by the Division of Arkansas State Police under Arkansas Code § 23-112-601 et seq., and this part.

**Authority.** Arkansas Code §§ 23-112-604, 23-112-617.

### **23 CAR § 431-103. Determination of fee.**

(a) By law, the Director of the Division of Arkansas State Police shall, pursuant to Arkansas Code § 23-112-617, determine the amount of licensed used motor vehicle dealers' fees for servicing and handling the sale, or lease with option to purchase or own, of a used motor vehicle to the Arkansas general public and other customers.

(b) By law, the fee to be charged by used motor vehicle dealers for servicing and handling shall be no less than zero dollars (\$0.00) in amount and no more than one hundred twenty-nine dollars (\$129) in amount for each sale, or lease with option to purchase or own, contract per one (1) or more motor vehicles, according to Arkansas Code § 23-112-617(c).

(c) The amount of the fee established by this part shall be no less than zero dollars (\$0.00) and no more than one hundred twenty-nine dollars (\$129).

**Authority.** Arkansas Code §§ 23-112-604, 23-112-617.

### **23 CAR § 431-104. Dealers' imposition of fee.**

(a) Any service and handling fee imposed on customers by used motor vehicle dealers subject to this part:

(1) Shall be charged uniformly to all retail customers;

(2) May not be presented as:

(A) Mandatory in writing, electronically, verbally, via American Sign Language, or via other media; or

(B) Mandatory or mandated by any entity other than the Arkansas used motor vehicle dealer who, or dealership which, is legally permitted to invoice, charge, and collect the service and handling fee established by this part;

(3)(A) Must follow the procedures for disclosure set out by this part.

(B) Appropriate notice means disclosing the following information to any customer or consumer in writing including:

(i) The dollar amount of the service and handling fee; and

(ii) Information which is typed in bold-face, capitalized, or underlined text or is otherwise conspicuously set out from surrounding or accompanying written or typed material; and

(4) Must also be prominently displayed in posters or signs:

(A) Measuring at least eight inches by ten inches (8" X 10") in the used motor vehicle dealer's showroom, primarily in the finance and insurance offices or other sales areas with frequent customer access and where used motor vehicle sales, or lease with option to purchase or own, documents are read and signed;

(B) Which include notice to customers that the dealer or dealership charges a service or handling fee, stating the exact amount of the fee, if any, to be charged, and stating other information required by Arkansas Code § 23-112-617;

(C) Which:

(i) Are displayed in a common font (Times New Roman, Courier New, or Arial, for example);

(ii) Are in legible type and font size clearly readable at a distance of not less than ten (10) feet; and

(iii) Include statutory information;

(D) With wording and graphic designs utilizing the full area of the posters or signs; and

(E) Which may be similar to any example proposed and published by the Arkansas Motor Vehicle Commission in or relating to its Dealer Service and Handling Fees rules, 23 CAR § 410-801 et seq.

(b) Any service and handling fee imposed on customers by used motor vehicle dealers subject to this part shall be disclosed:

(1) On the retail customer's order form as a separate itemized charge for sale, or lease with option to purchase or own, of a used motor vehicle;

(2) In any preliminary worksheet computing a sales, or lease with option to purchase or own, price on a used motor vehicle;

(3) In any retail buyer's order form from the purchaser or lessee or lessor with an option to purchase or own, and computing the sales, or lease with option to purchase or own, price on a used motor vehicle; and

(4) In any retail installment sales, or lease with option to purchase or own, contract computing a sale, or lease with option to purchase or own, price on a used motor vehicle.

(c) Any such retail customer's order form, preliminary worksheet, or installment sale, or lease with option to purchase or own, contract disclosing the amount of the service or handling fee shall include a separate consumer notice subject to the same requirements in 23 CAR § 431-104(a)(3)(B)(ii), and which for used motor vehicle sales, or leases with options to purchase or own, states:

"A SERVICE AND HANDLING FEE IS NOT AN OFFICIAL FEE.  
A SERVICE AND HANDLING FEE IS NOT REQUIRED BY LAW,  
BUT MAY BE CHARGED TO THE CUSTOMER FOR PERFORMING  
SERVICES AND HANDLING DOCUMENTS RELATING TO THE  
CLOSING OF A SALE OR LEASE WITH OPTION TO PURCHASE  
OR OWN. THE SERVICE AND HANDLING FEE DOES NOT

INCLUDE PAYMENT FOR THE PREPARATION OF LEGAL DOCUMENTS. THIS NOTICE IS REQUIRED BY LAW.”

**Authority.** Arkansas Code §§ 23-112-604, 23-112-617.