Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas  
87th General Assembly  
Regular Session, 2009  
By: Senator Teague  

A Bill  
SENATE BILL 781  

For An Act To Be Entitled  
AN ACT TO AMEND THE ARKANSAS MOTOR VEHICLE COMMISSION ACT; AND FOR OTHER PURPOSES.  

Subtitle  
TO AMEND THE ARKANSAS MOTOR VEHICLE COMMISSION ACT.  

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

SECTION 1. Arkansas Code § 23-112-103(8), regarding the definition of "conversion" under the Arkansas Motor Vehicle Commission Act, is amended to read as follows:  

(8) “Conversion” means a motor vehicle other than an ambulance or firefighting vehicle exempted specialty vehicle that is substantially modified by a person, firm, or corporation other than the manufacturer or distributor of the chassis of the motor vehicle and which has not been the subject of a retail sale;  

SECTION 2. Arkansas Code § 23-112-103(18), regarding the definition of "motor vehicle" under the Arkansas Motor Vehicle Commission Act, is amended to read as follows:  

(18) “Motor vehicle” means any motor-driven self-propelled vehicle having two (2) or more wheels that has as its primary purpose the transportation of a person, including, but not limited to, without limitation all-terrain vehicles, automobiles, trucks, motorcycles, motor-driven cycles, motor scooters, and motor homes;
SECTION 3. Arkansas Code § 23-112-103(19)(A)(i), regarding the definition of "motor vehicle dealer" under the Arkansas Motor Vehicle Commission Act, is amended to read as follows:

(19)(A)(i) “Motor vehicle dealer” means any person that is:
(a) engaged in the business of selling, offering to sell, soliciting, or advertising the sale of servicing or repairing motor vehicles under a manufacturer's warranty, regardless of the medium used, or possessing motor vehicles for the purpose of resale, either on his or her own account or on behalf of another, either as his or her primary business or incidental thereto; and
(b) Located at an established and permanent place of business under a franchise, sales and service agreement, or a bona fide contract in effect with a manufacturer or distributor.

SECTION 4. Arkansas Code § 23-112-103(31), regarding the definition of "used motor vehicle" under the Arkansas Motor Vehicle Commission Act, is amended to read as follows:

(31)(A) “Used motor vehicle” means any motor vehicle:
(i) that has previously sold, bargained, exchanged, given away, or the title thereto transferred from the person or corporation who first took title ownership from the manufacturer, distributor, dealer, or agents thereof; or
(ii) So used as to have become what is commonly known as a “second hand motor vehicle” or a “previously owned motor vehicle”.

(B) In the event of a transfer that is reflected on the statement of origin from the original franchise dealer to any other dealer, individual, or corporation other than a franchise dealer of the same make of vehicle, the vehicle shall be considered a used motor vehicle A new motor vehicle shall not be considered a used motor vehicle unless the motor vehicle has been:

(i) Placed in actual operation; and
(ii) Not held for resale by an owner that has:
(a) Been granted a certificate of title; and
(b) Registered the motor vehicle under the Uniform Motor Vehicle Administration, Certificate of Title, and Antitheft
Act, § 27-14-101 et seq.;

SECTION 5. Arkansas Code § 23-112-103, regarding definitions under the Arkansas Motor Vehicle Commission Act, is amended to add an additional subdivision to read as follows:

(34)(A) "Line make of a motor vehicle" means a group or series of motor vehicles that have the same brand identification or brand name, based upon the manufacturer's trademark, trade name, or logo.

(B) “Line make of a motor vehicle” does not include motor homes; and

(35) “Line make of a motor home” means a specific series of recreational vehicle products that:

(A) Are identified by a common series trade name or trademark;

(B) Are targeted to a particular market segment, as determined by their décor, features, equipment, size, weight, and price range;

(C) Have lengths and interior floor plans that distinguish the recreational vehicles with substantially the same decor, equipment, features, price, and weight;

(D) Belong to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and

(E) The manufacturer-dealer agreement authorizes a dealer to sell.

SECTION 6. Arkansas Code § 23-112-301(a), regarding the licensing of new motor vehicle dealers, is amended to read as follows:

(a) Notwithstanding any other statute, the following acts are declared to be unlawful:

(1) The violation of any of the provisions of this chapter; and

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

SECTION 7. Arkansas Code § 23-112-302(e), regarding the application for license as a new motor vehicle dealer, is amended to read as follows:

(e) The applicant for a license as a new motor vehicle dealer must furnish satisfactory evidence that the applicant:

(1) Maintains adequate space in the building or structure wherein the applicant’s established business is conducted for the display of new motor vehicles, or will have the facilities within a reasonable time after receiving a license; and

(2) Has or will have adequate facilities in the building or structure for the repair and servicing of motor vehicles and the adequate space for storage of new parts and accessories for the motor vehicles; and

(3) Will perform repair and warranty services on a motor vehicle at the licensed location.

SECTION 8. Arkansas Code § 23-112-307 is amended to read as follows:


(a) Unless the Arkansas Motor Vehicle Commission provide by rule to the contrary, all licenses issued to:

(1) Manufacturers, distributors, factory or distributor branches, importers, second-stage manufacturers, converters, and their representatives expire June 30 following the date of issue; and

(2) Motor vehicle dealers, motor vehicle salespersons, and motor vehicle lessors shall expire December 31 following the date of issue.

(b) Unless the commission shall by regulation provide otherwise, all licenses issued to motor vehicle lessors, representatives, and motor vehicle salespersons shall expire June 30 following the date of issue.

(c) Unless the commission by regulation provides to the contrary, licenses relating to motor vehicles having fewer than four (4) wheels shall expire December 31 following the date of issue.

SECTION 9. Arkansas Code § 23-112-308(a), regarding the denial,
revocation, and suspension of a new motor vehicle dealer license, is amended
to add additional subdivisions to read as follows:

(25) Using or permitting the use of a temporary cardboard
buyer's tag assigned to the dealer for any purpose other than permitted under
§ 27-14-1705; and

(26) Failure of a dealer to submit or deliver a certificate of
title or manufacturer's certificate of origin within a reasonable period of
time.

SECTION 10. Arkansas Code § 23-112-310(d)(1), regarding delivery,
preparation, and warranty obligations, is amended to read as follows:

(d)(1)(A) In no event shall any manufacturer, distributor,
distributor branch or division, or factory or division branch shall not pay
to any of its motor vehicle dealers a labor rate per hour or parts price for
warranty work that is less than that charged by the dealer to its retail
customers provided the rate is reasonable compared to other same line-make
dealers in the dealer's relevant market area or the dealer's competitive
market area.

(B) Conversely, no dealer shall not charge to its
manufacturer, distributor, distributor branch or division, or factory branch
or division a labor rate per hour or parts price in excess of the rate
charged to its retail customers.

(C) In the case of a motor home, a warrantor shall
reimburse the dealer for warranty parts at the actual wholesale cost plus a
minimum thirty percent (30%) handling charge and the cost, if any, of freight
to return the warranty parts to the warrantor.

SECTION 11. Arkansas Code § 23-112-311(c) is amended to read as
follows:

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

(1) Permanency of the investment of both the existing and
proposed new motor vehicle dealers;
(2) Growth or decline in population and new motor vehicle registrations in the relevant market area;

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

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

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

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

SECTION 12. Arkansas Code § 23-112-313 is amended to read as follows:


(a) Every manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division shall properly fulfill any warranty or recall agreement and adequately and fairly compensate each of its motor vehicle dealers for labor and parts.

(b)(1) In no event shall the compensation shall not fail to include reasonable compensation for diagnostic work, as well as repair service, and labor, and parts.

(c)(1) Time allowances for the diagnosis and performance of warranty or recall work and service shall be reasonable and adequate for the work to be performed.

(2) In the determination of what constitutes reasonable compensation for warranty or recall work and service under this subsection, the principal factor to be given consideration shall be considered is the prevailing wage rates, exclusive of routine maintenance, that are being paid charged by the dealer dealers in the relevant market area in which the motor vehicle dealer is doing business, and.

(3) In no event shall the compensation of a motor vehicle dealer for warranty or recall service shall not be less than the rates charged by the dealer for like service to retail customers for nonwarranty service and repairs provided the rate is reasonable compared to other same
line-make dealers in the dealer's relevant market area or the dealer's competitive market area.

(d)(1)(A) The pricing for a recalled part shall not be reduced to an amount that is less than the original dealer cost or price for the same part unless the manufacturer obtains a discounted rate for the recalled part from a supplier.

(B) A recalled part is considered the same part if it is substantially the same part regardless of the part number.

(2) Additionally, there shall be no requirement for a part-by-part analysis is not required in determining to determine the retail rate for parts.

(3) The parts mark-up shall not be substituted for a handling allowance or similar pricing amount that results in the reduction of compensation for the dealer.

(3)(A)(e)(1) All claims under this subsection section, either original or resubmitted, made by motor vehicle dealers for the labor and parts shall be either approved or disapproved within thirty (30) days following their approval or disapproval.

(B)(i)(2)(A)(i) The motor vehicle dealer who submits a claim which is disapproved shall be notified in writing of the disapproval within the same period, and each such notice shall state the specific grounds upon which the disapproval is based.

(ii) The motor vehicle dealer shall be permitted to may correct and resubmit such the disapproved claims within thirty (30) days of receipt of disapproval.

(4)(A) (i) Any claims not specifically disapproved in writing within thirty (30) days from their submission shall be deemed approved, and payment shall follow within thirty (30) days.

(B) A claim shall not be disapproved because of a clerical error was made which does not render the amount of the claim incorrect.

(C)(i)(4)(A) The manufacturer or franchiser shall have the right to may:

(i) require Require documentation for claims j.
(ii) and to audit Audit the claims within a one-year period from the date the claim was paid or credit issued by the manufacturer or franchiser; and

(iii) to charge Charge back any false or unsubstantiated claims.

(B) The audit and charge-back provisions of this subdivision (b)(3) subsection (e) also apply to all other incentive and reimbursement programs for a period of twelve (12) months after the date of the transactions that are subject to audit by the franchiser.

(C) However, the manufacturer retains the right to charge back any fraudulent claim if the manufacturer establishes in a court of competent jurisdiction in this state that the claim is fraudulent within a period not to exceed two (2) years from the date of the claim in question.

(D)(i) A dealer may file an appeal with the Arkansas Motor Vehicle Commission to protest any chargeback under this subdivision (b)(3)(C) (e)(4) within thirty (30) days ninety (90) days of notification by the manufacturer or distributor.

(ii) If a dealer files an appeal of the chargeback with the commission, the manufacturer or distributor shall not levy the chargeback until the appeal is resolved. The commission shall hold a hearing on the matter no later than one hundred twenty (120) days from the time the appeal is filed unless all parties have otherwise agreed to settle the matter.

(iii) An appeal by the licensee under this subdivision (b)(3)(C)(iv) (e)(4)(D) shall be in accordance with the provisions of § 23-112-501 et seq.

(f) This section shall not apply to compensation for parts of a motor home other than parts of a motorized chassis, engine, and power train.

SECTION 13. Arkansas Code § 23-112-403(a)(2)(C)(v), regarding manufacturers, distributors, second-stage manufacturers, importers, and converters, is amended to read as follows:

(v)(a) In the event of the termination or cancellation of If the franchise agreement, sales and service agreement, or bona fide contract or selling agreement is terminated or cancelled, the
terminating or canceling party shall notify the commission of the termination or cancellation of the franchise or selling agreement at least sixty (60) days before the effective date.

(b) For motor vehicles other than motor homes, this subdivision (a)(2)(C)(v) applies to both voluntary and involuntary termination or cancellation of the franchise or selling agreement.

(c)(1) For motor homes, this subdivision (a)(2)(C)(v) applies to both the voluntary dealer-initiated termination or cancellation of all motor home franchise or selling agreements and the involuntary manufacturer-initiated termination or cancellation of any one (1) or more motor home franchise or selling agreements.

(2) This subdivision only applies to the voluntary dealer-initiated termination of one (1) of two (2) or more line makes of motor homes if the dealer can show due cause to terminate or cancel the motor home franchise or selling agreement;

SECTION 14. Arkansas Code § 23-112-403(a)(2)(K), regarding manufacturers, distributors, second-stage manufacturers, importers, and converters, is amended to read as follows:

(K) Notwithstanding the terms of any franchise agreement, to fail to pay to a dealer or any lienholder in accordance with their respective interests after the termination of franchise:

(i) The dealer cost plus any charges by the manufacturer, distributor, or a representative for distribution, delivery, and taxes, less all allowances paid to the dealer by the manufacturer, distributor, or representative for new, unsold, undamaged, and complete motor vehicles of current model year and one (1) year prior model year in the dealer’s inventory;

(ii) The dealer cost of each new, unused, undamaged, and unsold part or accessory, if the part or accessory is in the current parts catalogue, and if the part or accessory was purchased by the dealer either directly from the manufacturer or distributor or from an outgoing authorized dealer as a part of the dealer’s initial inventory

(a) Was purchased from the manufacturer by the dealer and is in the original package;

(b) Is identical to a part or accessory in the current parts catalogue except for the number assigned to the part or
accessory; or

(c) Was purchased in the ordinary course of

business by the dealer from another authorized dealer so long as the
authorized dealer purchased the part or accessory directly from the
manufacturer or distributor or from an outgoing authorized dealer as part of
the dealer's initial inventory;

(iii) The fair market value of each undamaged sign
owned by the dealer which bears a trademark or trade name used or claimed by
the manufacturer, distributor, or representative, if the sign was purchased
from or purchased at the request of the manufacturer, distributor, or
representative;

(iv) The fair market value of all special tools and
automotive service equipment owned by the dealer which were recommended
in writing and designated as special tools and equipment and purchased from
or purchased at the request of the manufacturer, distributor, or
representative, if the tools and equipment are in usable and good condition
except for reasonable wear and tear;

(v) The cost of transporting, handling, packing, and
loading of motor vehicles, parts, signs, tools, and equipment subject to
repurchase;

(vi) The balance of all claims for warranty and
recall service and all other money owed by the manufacturer to the dealer;

(vii)(a) Compensation for the actual pecuniary loss
caused by the franchise termination, cancellation, or nonrenewal unless for
due cause.

(b) In determining the actual pecuniary loss,
the value of any continued service or parts business available to the dealer
for the line make covered by the franchise shall be considered. If the dealer
and the manufacturer, importer, or distributor cannot agree on the amount of
compensation to be paid under this subchapter, either party may file an
action in a court of competent jurisdiction; or

(viii) Any sums due as provided by subdivision
(a)(2)(K)(i) of this section within sixty (60) days after termination of a
franchise and any sums due as provided by subdivisions (a)(2)(K)(ii)-(vii) of
this section within ninety (90) days after termination of a franchise. As a
condition of payment, the dealer shall comply with reasonable
requirements with respect to the return of inventory as are set out in the
terms of the franchise agreement. A manufacturer, distributor, or
representative who fails to pay those sums within the prescribed time or at
such time as the dealer and lienholder, if any, proffer good title prior to
before the prescribed time for payment, is liable to the dealer for:

(a) The greatest of dealer cost, fair market
value, or current price of the inventory;

(b) Interest on the amount due calculated at
the rate applicable to a judgment of a court; and

(c) Reasonable attorney's fees and costs; or

(ix) Obligations under this subdivision (a)(2)(K) do
not apply if the termination is a result of the conviction of the franchisee
in a court of competent jurisdiction of an offense that is punishable by a
term of imprisonment in excess of one (1) year and the offense is
substantially related to the business conducted pursuant to the franchise;

SECTION 15. Arkansas Code § 23-112-403(a)(2)(M), regarding
manufacturers, distributors, second-stage manufacturers, importers, and
converters, is amended to read as follows:

(M)(i) To offer to sell or to sell any motor vehicle to a
consumer, except through a licensed new motor vehicle dealer holding a
franchise, a sales and service agreement, or a bona fide contract for the
line make covering the new motor vehicle or as may otherwise be provided in
subdivision (a)(3) of this section.

(ii) This subdivision (a)(2)(M) shall does not apply
to manufacturer sales of new motor vehicles to the federal government,
charitable organizations, or employees of the manufacturer;

SECTION 16. Arkansas Code § 23-112-404 is amended to read as follows:


It shall be is unlawful for a motor vehicle lessor or any agent,
employee, or representative thereof:

(1) To represent and to offer for sale or to sell as a new or
unused motor vehicle any a motor vehicle which has been used or was
intended to be used and operated for leasing or rental purposes or which is
otherwise a used motor vehicle;
(2) To resort to, use, or employ any false, fraudulent, deceptive, or misleading advertising or representations in connection with the business of leasing or renting motor vehicles; or

(3) To sell or offer to sell a motor vehicle from an unlicensed location.

SECTION 17. Arkansas Code § 23-112-406(b), regarding requirements for acting as a broker, is amended to read as follows:

(b)(1) To effectuate this chapter, the definition of “arranges or offers to arrange a transition transaction” means soliciting or referring buyers for new motor vehicles for a fee, commission, or other valuable consideration.

(2) “Arranges or offers to arrange a transaction” does not include advertising as long as the person’s business primarily includes the business of broadcasting, printing, publishing, or advertising for others in their own names.

SECTION 18. Arkansas Code § 23-112-501 is amended to read as follows:


(a)(1) The Arkansas Motor Vehicle Commission shall not:

(1) Deny an application for a license without first giving the applicant a hearing, or an opportunity to be heard, on the question of whether he or she is qualified under the provisions of this chapter to receive the license applied for; if the application is considered inadequate after the initial review by the executive director.

(2) Within thirty (30) days after the executive director denies an application under subdivision (a)(1) of this section, the affected applicant may protest the executive director's decision and request a hearing before the commission.

(b) The Arkansas Motor Vehicle Commission shall not:

(2)(1) Revoke or suspend a license without first giving the licensee a hearing, or an opportunity to be heard, on the question of whether there are sufficient grounds under the provisions of this chapter upon which to base the revocation or suspension; or

(3)(2) Impose a civil penalty pursuant to § 23-112-314 without first giving the respondent a hearing pursuant to the Arkansas Administrative
Procedure Act, § 25-15-201 et seq.

SECTION 19. Arkansas Code § 23-112-503(d), regarding the notice and location of a hearing before the Arkansas Motor Vehicle Commission, is amended to read as follows:

(d)(1) Any hearing shall be held in the county of the residence of the party whose rights may be affected thereby or the county of that party's principal place of business.

(2) If the party is a nonresident of the state, the hearing shall be held in the county where the principal office of the commission is located unless both parties agree to an alternate location.

SECTION 20. Arkansas Code § 27-14-1705 is amended to read as follows:

27-14-1705. Temporary cardboard buyer's tags.

(a) A dealer shall issue to a person who buys an unregistered vehicle one (1) temporary cardboard buyer's tag for the vehicle.

(b)(1) The temporary cardboard buyer's tag is valid for the operation of the vehicle until the earlier of:

(A) The date on which the vehicle is registered; or

(B) The thirtieth day after the date of purchase.

(2) If the date that a transferee of a motor vehicle must register the vehicle is extended under § 27-14-903(a)(1), the dealer may issue one (1) additional temporary cardboard buyer's tag to the transferee, to expire thirty (30) days from the date that the additional temporary cardboard buyer's tag was issued.

(3) A temporary cardboard buyer's tag also may be used for:

(A) A demonstration vehicle for a period of time not to exceed seventy-two (72) hours for test drive purposes; or

(B) A loaner vehicle for a period of time not to exceed fourteen (14) days to allow repairs on a vehicle.

(4) A temporary cardboard buyer's tag shall not be placed on work or service vehicles owned by a dealer, manufacturer, or transporter.

(c)(1) The dealer shall show in ink on the temporary cardboard buyer's tag the actual date of sale and any other information required by the Director of the Department of Finance and Administration.

(2) The dealer shall be responsible for affixing the
temporary cardboard buyer's tag to the vehicle as provided in this section.

(d) The temporary cardboard buyer's tag under this section shall be placed at the location provided for the permanent motor vehicle license plate.

(e) The dealer is responsible for the safekeeping and distribution of each temporary cardboard buyer's tag that the dealer obtains from the director.

(f) The director shall provide the specifications, form, and color of the temporary cardboard buyer's tag.

(g)(1)(A) The dealer shall be responsible for paying to the director a fee to be set by the director, which shall not exceed one dollar ($1.00), for each temporary cardboard buyer's tag. The dealer shall pass this fee on to the buyer to whom the tag was issued.

(B) The fee shall be collected by the director before issuance of the temporary cardboard buyer's tag to the dealer.

(C) No dealer shall be allowed to charge a customer a fee for a temporary cardboard buyer's tag higher than that charged to the dealer by the director.

(2) The gross receipts or gross proceeds derived from the sale or issuance of temporary cardboard buyer's tags under this section shall be exempt from the Arkansas gross receipts tax levied by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas compensating use tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., and any other state or local tax administered under those chapters.

(3) All fees collected by the director under this section shall be deposited into the State Treasury, and the Treasurer of State shall credit them as general revenues to the General Revenue Fund Account of the State Apportionment Fund.

(h) For each temporary cardboard buyer's tag provided to a buyer by the dealer, the dealer shall retain documentation containing:

(1) The dealer's name;

(2) The buyer's name;

(3) The date the temporary cardboard buyer's tag was issued;

(4) The vehicle's vehicle identification number;

(5) The make and model of the vehicle; and

(6) The expiration date of the temporary cardboard buyer's tag.
(i) To purchase temporary cardboard buyer’s tags under this subchapter, the person shall establish that he or she is a licensed:

(1) New motor vehicle dealer under § 23-112-301;
(2) Used motor vehicle dealer under § 23-112-607;
(3) Manufacturer of motor vehicles under this chapter; or
(4) Transporter of motor vehicles under this chapter.

(j) Any dealer, manager, salesperson, or employee of the dealer who pleads guilty or nolo contendere to or who is found guilty of the misuse of a temporary cardboard buyer’s tag or of allowing anyone else to misuse a temporary cardboard buyer’s tag is guilty of a violation under § 5-1-108 and shall be fined not more than two hundred fifty dollars ($250) for the first offense, not more than five hundred dollars ($500) for the second offense, and not more than one thousand dollars ($1,000) for the third and subsequent offenses.

(k) In addition to criminal penalties under this subsection (j), the use of temporary cardboard buyer's tags in a manner not authorized under this section may result in the denial, revocation, or suspension of the license of the new motor vehicle dealer, used motor vehicle dealer, manufacturer, or transporter.

This section does not apply to an owner or lessee of a registered motor vehicle who elects to display a license plate on a replacement motor vehicle under § 27-14-902(a)(3)(B).

SECTION 21. Arkansas Code § 14-22-101(8), regarding the definition of “used or secondhand motor vehicles, equipment, or machinery” used for county purchasing procedures, is amended to read as follows:

(8)(A) “Used or secondhand motor vehicles, equipment, or machinery” means any motor vehicles, equipment, or machinery at least two (2) years in age from the date of original manufacture or that has at least five hundred (500) working hours’ prior use or ten thousand (10,000) miles’ prior use.

(B)(i) Any purchase of a used motor vehicle, equipment, or machinery shall be accompanied by a statement in writing from the vendor on the bill of sale or other document that the motor vehicle, equipment, or machinery is at least two (2) years in age from the date of original manufacture or has been used a minimum of five hundred (500) hours or driven
a minimum of ten thousand (10,000) miles.
(ii) This statement shall be filed with the county clerk at the time of purchase.

SECTION 22. Arkansas Code § 14-22-106 is amended to read as follows:

14-22-106. Purchases exempted from soliciting bids.
The following listed commodities may be purchased without soliciting bids:

(1) Perishable foodstuffs for immediate use;
(2) Unprocessed feed for livestock and poultry;
(3) Advanced emergency medical services provided by a nonprofit corporation and proprietary medicines when specifically requested by a professional employee;
(4) Books, manuals, periodicals, films, and copyrighted educational aids for use in libraries and other informational material for institutional purposes;
(5) Scientific equipment and parts therefor;
(6) Replacement parts and labor for repairs of machinery and equipment;
(7) Commodities available only from the federal government;
(8)(A) Any commodities needed in instances in which an unforeseen and unavoidable emergency has arisen in which human life, health, or public property is in jeopardy.

(B) However, no such An emergency purchase under subdivision (8)(A) of this section shall not be approved unless a statement in writing shall be is attached to the purchase order describing the emergency necessitating the purchase of such the commodity without competitive bidding;

(9) Utility services, the rates for which are subject to regulation by a state agency or a federal regulatory agency;
(10) Sand, gravel, soil, lumber, used pipe, or used steel;
(11) Used or secondhand motor vehicles, machinery, or equipment, except that a used or secondhand motor vehicle that has been under lease to a county when the vehicle has fewer than ten thousand (10,000) miles of use may shall not be purchased by the county when it has been used ten thousand (10,000) miles or more except upon competitive bids as provided for in this
chapter;

(12) Machinery, equipment, facilities, or other personal property purchased or acquired for, or in connection with, the securing and developing of industry under or pursuant to the provisions of Arkansas Constitution, Amendment 49 [repealed], the Municipalities and Counties Industrial Development Revenue Bond Law, § 14-164-201 et seq., or any other provision of law pertaining to the securing and developing of industry;

(13) Registered livestock to be used for breeding purposes;

(14) Motor fuels, oil, asphalt, asphalt oil, and natural gas;

(15) Motor vehicles, equipment, machinery, material, or supplies offered for sale at public auction or through a process requiring sealed bids; and

(16) All goods and services that are regularly provided to state agencies and county government by the Department of Correction’s various penal industries;

(17) New motor vehicles from a motor vehicle dealer licensed under the Arkansas Motor Vehicle Commission Act, § 23-112-101 et seq., if the motor vehicle is purchased for an amount not to exceed the fleet price awarded by the Office of State Procurement and in effect at the time the county submits the purchase order for the same make and model motor vehicle; and

(18) The renewal or extension of the term of an existing contract.

SECTION 23. Arkansas Code Title 14, Chapter 58, Subchapter 1 is amended to add an additional section to read as follows:

14-58-104. Specific purchases and contracts.

(a) The municipal governing body of a city of the first class, city of the second class, or an incorporated town may purchase the following commodities without soliciting bids:

(1) Motor fuels, oil, asphalt, asphalt oil, and natural gas; and

(2) New motor vehicles from a motor vehicle dealer licensed under the Arkansas Motor Vehicle Commission Act, § 23-112-101 et seq., if the motor vehicle is purchased for an amount not to exceed the fleet price awarded by the Office of State Procurement and in effect at the time the municipal governing body of a city of the first class, city of the second
class, or an incorporated town submits the purchase order for the same make
and model motor vehicle.

(b) The municipal governing body of a city of the first class, city of
the second class, or an incorporated town may renew or extend the term of an
existing contract without soliciting bids.

SECTION 24. Arkansas Code § 14-58-303(b), regarding the power of
municipalities to make purchases and enter into contracts, is amended to read
as follows:

(b)(1)(A) Except as provided under § 14-58-104, the municipal
governing body of any city of the first class shall provide by ordinance the
procedure for making all purchases which do not exceed the sum of twenty
thousand dollars ($20,000).

(B) The municipal governing body of any city of the second class or incorporated town
may provide by ordinance the procedure for making all purchases.

(2)(A)(i) In a city of
the first class where the amount of expenditure for any purpose or contract
exceeds the sum of twenty thousand dollars ($20,000), the mayor or the
mayor's authorized representative shall invite competitive bidding on the
purpose or contract by legal advertisement in any local newspaper.

(ii) Bids received pursuant to the advertisement
shall be opened and read on the date set for receiving the bids in the
presence of the mayor or the mayor's authorized representative.

(iii) The mayor or the mayor’s authorized
representative shall have exclusive power to award the bid to the lowest
responsible bidder, but may reject any and all bids received.

(B) The governing body by ordinance may waive the
requirements of competitive bidding in exceptional situations where this
procedure is deemed not feasible or practical or as provided under § 14-58-
104.

SECTION 25. EMERGENCY CLAUSE. It is found and determined by the
General Assembly of the State of Arkansas that motor vehicle dealers are
experiencing economic difficulties related to the state of the national
economy and the motor vehicle industry in particular; that an unprecedented
number of motor vehicle dealers may terminate their franchises as a result of these economic conditions; and that this act is immediately necessary to assist dealers that are facing possible termination of their franchise. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

1. The date of its approval by the Governor;
2. If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
3. If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/ Teague

APPROVED: 4/1/2009