

DEPARTMENT OF ARKANSAS STATE POLICE
"USED ~~AUTOMOBILE~~ MOTOR VEHICLE DEALERS SERVICE AND HANDLING FEES RULES"

Rule 1.0 Rules Adopted.

These Rules shall be known as the Used ~~Automobile~~ 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.

- a) **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.
- b) **These Rules** shall apply to all Used **Motor Vehicle Dealerships** which or Used ~~Automobile~~ Motor Vehicle Dealers who are subject to licensure by the Department of the Arkansas State Police under Ark. Code Ann. §§23-112-601 (Supp. 2007), et seq.
- c) **These Rules** shall be effective on and after ~~September 1, 2007.~~ September 15, 2007.

Rule 1.2. Definitions.

- a) "Director" means Director of the Department of the Arkansas State Police.
- b) "Department" means the Department of the Arkansas State Police.
- c) "Service and handling fee" **as a term** means the sums charged customers of Used ~~Automobile~~ Motor Vehicle Dealers upon the sale, or lease with option to purchase or own, of a used motor vehicle under Ark. Code Ann. §23-112-617 (Supp. 2007), et seq.; and which fee is customarily imposed by the Used ~~Automobile~~ Motor Vehicle Dealer for reimbursement of his/its costs and expenses in handling and 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 ~~automobile-~~ motor vehicle.
- d) "Used ~~Automobile~~ Motor Vehicle Dealers" means Arkansas motor vehicle dealers selling, or leasing with option to purchase or own, used motor vehicles to the general public under licensure by the Department of the Arkansas State Police under Ark. Code Ann. §§23-112-601, et seq., and **these Rules.**

Rule 1.3. Determination of Fee.

- a) By law, the Director of the Department of the Arkansas State Police shall, pursuant to Ark. Code Ann. §23-112-617, determine the amount of licensed Used ~~Automobile~~ 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 ~~licensed~~ Used ~~Automobile~~ Motor Vehicle Dealers for servicing and handling shall be no less the 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 ~~automobile(s)~~, motor vehicle(s), according to Ark. Code Ann. §23-112-617(c) (Supp 2007).

c) The amount of the fee established by **these Rules** shall be no less than \$0 and no more than \$129.00.

Rule 2.0 Dealers' Imposition of Fee.

a) Any service and handling fee imposed on customers by Used Automobile Motor Vehicle Dealers subject to **these Rules**:

1) shall be charged uniformly to all retail ~~or wholesale~~ customers; ~~without discrimination or variation;~~

2) may not be presented as mandatory in writing, electronically, verbally, via American Sign Language, or via other media as mandatory; nor presented as mandatory or mandated by any entity, other than the Arkansas Used Automobile Motor Vehicle Dealer who or dealership which is legally permitted to invoice, charge and collect the service and handling fee established by **these Rules**;

3) must follow the procedures for disclosure set out by **these Rules**. Appropriate notice means disclosing the following information to any customer or consumer in writing **including**:

(A) the dollar amount of the service and handling fee; and

(B) 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;

4) must also be prominently displayed in posters or signs:

(A) measuring at least 8 feet inches by 10 feet, inches in the Used Automobile Motor Vehicle Dealer's showroom, primarily in the finance and insurance offices or other sales areas with frequent customer access and where used automobile 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 Ark. Code Ann. §23-112-617;

(C) which are displayed in a common font (Times New Roman, Courier New, or Arial, **for example**); are in legible type and font size clearly readable at a distance of not less than ten (10) feet; at least 55 point size type; and which include statutory information; ~~which itself is printed in at least 24 point size type;~~

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

(E) which may be similar to ~~the~~ any example proposed and published by the Arkansas Motor Vehicle Commission in or relating to its Rule 87. Department at its website at www.asp.Arkansas.gov, or which is available at the Department's Little Rock Headquarters.

b) Any service and handling fee imposed on customers by Used Automobile Motor Vehicle Dealers subject to **these Rules**:

(1) shall be disclosed on the retail ~~or wholesale~~ customer's order form as a separate itemized charge for sale, or lease with option to purchase or own, of a used ~~automobile;~~ motor vehicle;

(2) shall be disclosed in any preliminary worksheet computing a sales, or lease with option to purchase or own, price on a used ~~automobile;~~ motor vehicle;

(3) shall be disclosed in any retail ~~or wholesale~~ 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 ~~automobile;~~ motor vehicle; and

(4) shall be disclosed in any retail ~~or wholesale~~ 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 ~~automobile;~~ motor vehicle.

c) Any such retail ~~or wholesale~~ 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 Rule 2.0(a)((3)(B), and which for used automobile 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."

~~Rule 2.1 Commencement for Imposition of Fee.~~

~~The amount of the service and handling fees set under these Rules may only be imposed by Used Automobile Dealers on and after the date that these Rules are effective. Questions on these Rules, the service and handling fee, or licensure of Used Automobile Dealers in this state may be directed to the Department's Internet website or personnel.~~

SIGNED
COLONEL WINFORD E. PHILLIPS
DIRECTOR, DEPARTMENT OF ARKANSAS STATE POLICE

____9-14-2007_____
DATE