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Summary of Changes: Proposed Rules – Division of Arkansas State Police Used Motor Vehicle Dealer Licensing Rules

SUMMARY OF CHANGES

Division of Arkansas State Police Used Motor Vehicle Dealer Licensing Rules

1. The term "Department" is replaced with the word "Division" throughout the Rules.
2. Omit any reference to "regulation(s)" in accordance with Act 315 of 2019.
3. Rule 5.1 – 5.3 are added to permit reciprocal and temporary licensing in accordance with Act 426 of 2019.
4. Rule 5.4 is added to permit expedited licensure process for certain military-affiliated applicants in accordance with Act 820 of 2019.

**DEPARTMENTDIVISION OF ARKANSAS STATE POLICE
USED MOTOR VEHICLE DEALER LICENSING RULES**

Rule 1. “Definitions” As used in these rules and procedures, unless the context otherwise requires, the following terms are defined as:

1A. “DepartmentDivision” means the DepartmentDivision of Arkansas State Police (“ASP”).

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1E. “Applicant” means any person who has submitted to the DepartmentDivision a properly completed application for a certificate of license to conduct business under the provisions of the Act.

1F. “License” means a certificate issued to a person, by the DepartmentDivision, authorizing that person to conduct business under the provisions of this “Act” and these rules.

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1H. “Documentation” means such information as may be required by the DepartmentDivision, utilized to determine an applicant’s or licensee’s qualifications to hold a certificate of license.

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Rule 2. “Licensee” Responsibilities

2.1. Any person who fails to renew the certificate of license as outlined in this “Act” and within the guidelines of the provisions of the DepartmentDivision of Finance, division of Motor Vehicles shall be required to submit, with the application for renewal, a sworn affidavit attesting they have not violated any provisions of this “Act” or these rules.

2.2. A licensee, shall within seven (7) calendar days, notify the DepartmentDivision in writing of any change in the following:

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2.6. The Director shall issue an order of summary suspension to the holder of a certificate of license 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 DepartmentDivision.

2.7. The Bond and Insurance requirement(s), as outlined under the provisions of the “Act” shall be in force at all times while holding a certificate of license. Failure of a licensee to comply with this rule 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 DepartmentDivision and shown to be in full force.

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2.9. 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 DepartmentDivision.

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2.13. Any person to who a certificate of license has been granted ceases to conduct business at the location on file with the departmentDivision, shall notify the director, in writing, of such cessation within ten (10) calendar days. The license shall automatically be suspended and shall not be reinstated until the provisions for licensure outlined in the “Act” or these rules are met.

Rule 3. Hearing Provisions

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3.3. 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. All pleadings and motions to be filed relative to the hearing shall be signed, verified and dated, and filed with the DepartmentDivision.

3.4. During the course of a hearing, the DepartmentDivision shall not be bound by the technical rules of evidence and 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 men in the conduct of their affairs, provided, however, the hearing officer shall give effect to the rules of privilege recognized by the law and may exclude hearsay, incompetent, irrelevant, immaterial or repetitious evidence and may make rulings to protect witnesses from undue harassment or oppression.

3.5. All evidence, including records and documents, in possession of the DepartmentDivision 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. Any person who is required to meet any of the qualifications under the “Act” or these rules, whose rights may be affected in any hearing shall have the right to appear personally and by counsel to introduce evidence in their behalf, to cross-examine witnesses and to examine any document or other evidence submitted.

3.6. In any hearing held for the purpose of affording any applicant the opportunity to show his qualifications under this “Act” or these rules, the burden of proof shall be on the applicant. In hearings held for the purpose of revoking, suspending or reprimanding, the burden of proof shall be on the DepartmentDivision or Complainant.

3.7. Hearings shall be conducted by the hearing officer, as defined in Rule 1I of these rules.

3.8. Hearings shall be held at location to be determined by the DepartmentDivision.

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3.11. The DepartmentDivision will cause to be made an official record of the proceedings.

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Rule 4. Mandatory Educational Seminar

4.1. All applicants for a license as a used motor vehicle dealer, as described in Ark. Code Ann. Section 23-112-601 et seq. prior to obtaining a license, are required to attend a DepartmentDivision approved educational seminar.

4.2. In order to be approved by the DepartmentDivision, a seminar must meet the following criteria to the satisfaction of the DepartmentDivision:

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- B.** The names of the individuals who will be conducting the seminar must be submitted with the application for approval of the seminar. Said individuals shall demonstrate knowledge of these rules and general provisions by having at least one year of experience with the used motor vehicle industry in Arkansas or a related area as determined by the DepartmentDivision; and
- C.** The proposal for approval of a seminar shall include a course outline, along with proposed materials to be used in the instruction. The course outline must provide for, at a minimum, instruction in each of the following areas:
 - 1.** requirements of Act 490 of 1993, as amended, for obtaining a license as a used motor vehicle dealer;
 - 2.** overview of related state statutes, ~~regulations~~ and DepartmentDivision rules;
 - 3.** laws concerning titles, tags and taxes;
 - 4.** applicable laws and rules concerning required record keeping;
 - 5.** The Deceptive Trade Practices Act, including, but not limited to, advertising, unfair and deceptive sales practices and odometer requirements;
 - 6.** such general discussion items as may be determined by the DepartmentDivision to be of significance or concern.

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- F.** In the event the employee attending the required course as a representative of the licensee shall cease employment with the licensee company for any reason, the licensee company shall within ten (10) days notify the DepartmentDivision. The licensee shall then designate another bona fide, full-time employee who must complete the mandatory course within 120 days of the date of such notification.

4.3. The corporation administering the mandatory course shall be certified by the DepartmentDivision. Application for certification shall be on a form prescribed by the DepartmentDivision, and shall include the following:

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D. A list of the times, dates and locations of all courses to be taught, provided such list may be changed or updated if notification of such change or updating is provided to the DepartmentDivision a minimum of seven (7) days prior to the course being presented.

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4.4. A corporation certified by the DepartmentDivision to conduct the mandatory training course may utilize video equipment for the presentation of portions of the course in lieu of live instructors, provided that a copy of the video has been presented to the DepartmentDivision and the DepartmentDivision has provided written approval of the contents; provided that when such video is utilized, the certified corporation shall provide a proctor or proctors to assure attendance of the applicants for licensing. Such manner for proctoring shall be approved by the DepartmentDivision prior to implementation of the use of video equipment as an alternative to live instructors.

4.5. A corporation certified by the DepartmentDivision to conduct the mandatory training course shall, within five (5) days of the completion of such course, provide to the DepartmentDivision on a form prescribed by the DepartmentDivision a list of all persons completing the course and, in the case of a renewal of license, the DepartmentDivision-assigned control number of the licensee.

4.6. Failure of any corporation certified by the DepartmentDivision, or any licensee, to fulfill the requirements of this Rule shall result in suspension or revocation of the certification of the corporation or the license of the licensee. Provided, the corporation or licensee shall have the right to appeal such suspension or revocation as provided in Rule 3 of these Rules.

Rule 5. Reciprocal, Temporary, and Expedited Licensure

5.1. An applicant who holds a Used Motor Vehicle Dealer 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 Ark. Code Ann. § 23-112-607. The reciprocity applicant must submit the required forms and applicable fees.

5.2. 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 Ark. Code Ann. § 23-112-607. The reciprocity applicant must submit the required forms and applicable fees.

5.3. An applicant for a temporary Arkansas license may obtain a six (6) month temporary Arkansas license if he or she meets the requirements set

forth in Ark. Code Ann. § 23-112-607. The temporary applicant must submit the required forms and applicable fees.

5.4. The Division will expedite the licensure process for active duty military members stationed in Arkansas, returning military veterans applying for licensure within one (1) year of his or her discharge from active duty, and/or the spouse of a qualifying service member or veteran. 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 DD214.