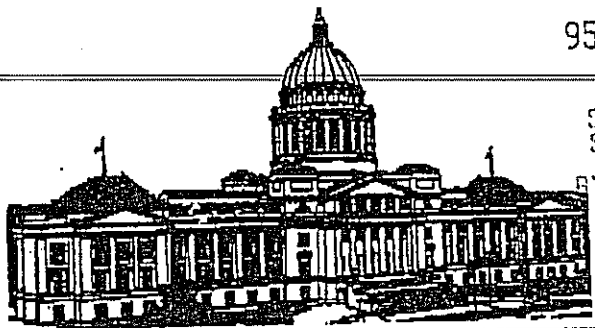


ARKANSAS REGISTER

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95 SEP 15 AM 9:18 Transmittal Sheet



SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

BY Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

For Office
Use Only:

Effective Date 10/4/95 Code Number 130.00.95--004

Name of Agency ARKANSAS STATE POLICE

Department SPECIAL SERVICES

Contact Person CPL. LARRY PATTERSON Phone 221-8245

Statutory Authority for Promulgating Rules A.C.A. 23-112-604 (A)

| | Date |
|-----------------------------------------------|---------------------------------------------------------|
| Intended Effective Date | Legal Notice Published <u>7-12-95</u> |
| <input type="checkbox"/> Emergency | Final Date for Public Comment <u>8-11-95</u> |
| <input type="checkbox"/> 10 Days After Filing | Filed With Legislative Council <u>7-11-95</u> |
| <input checked="" type="checkbox"/> Other | Reviewed by Legislative Council <u>9-7-95</u> |
| <u>20 days after filing</u> | Adopted by State Agency <u>9-7-95</u> |

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Larry D. Patterson
Signature

501-221-8245
Phone Number

ADM. USED CAR DEALER LICENSING
Title

9-14-95
Date

130.00.95-004

ACT 490 OF 1993, AS AMENDED, RULES AND GENERAL PROVISIONS

FILED
AR. REGISTER DIV.

SEP 15 AM 9:39

SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

BY _____

- Rule 1. "Definitions" As used in these rules and procedures, unless the context otherwise requires, the following terms are defined as:
- 1A. "Department" means the Department of Arkansas State Police
- 1B. "Director" means the Director of Arkansas State Police, or his designated representative.
- 1C. "Act" means Act 490 of 1993, as it may hereafter be amended.
- 1D. "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 Act 490 of 1993 as amended.
- 1E. "Applicant" means any person who has submitted to the Department 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 Department, authorizing that person to conduct business under the provisions of this "Act" and these rules.
- 1G. "Licensee" means a person who holds a valid certificate of license as defined in Rule 1F.
- 1H. "Documentation" means such information as may be required by the Department, utilized to determine an applicant's or licensee's qualifications to hold a certificate of license.
- 1I. "Hearing Officer" means the Director of the Arkansas State Police, or his designated representative acting in cases of adjudication as outlined in the Arkansas Administrative Procedures Act, as amended.
- 1J. "Salesman" means a person as defined in Act 490 of 1993, as amended.
- 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 Department 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 Department in writing of any change in the following:
- A. Change of physical address.
- B. Change of mailing address.
- C. Change of any telephone number(s).
- D. Change of any persons or entities having any ownership in the used vehicle dealership.
- E. Change of any name, address, or telephone number of the person designated to receive legal process, as outlined in the Act.
- 2.3 The licensee shall be legally responsible for the good conduct in the business of each employee, including salesmen.
- 2.4 Any person who falsely represents that he is employed by a licensee shall be deemed guilty of violating the provisions of Act 490 of 1993 as amended.
- 2.5 The Director 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. The suspended license holder shall be afforded a hearing in a prompt and timely manner.
- 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 Department.
- 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 Department and shown to be in full force.
- 2.8 Persons who hold a certificate of license must use the Arkansas State Police dealer number in published advertising as follows: AR/DLR (number) or print the dealership name.
- 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 Department.

- 2.10 A suspended license is subject to expiration and shall be renewed as provided in the "Act" or these Rules, however, renewal does not entitle the licensee, while the license remains suspended and until it

is reinstated, to engage in the licensed activity or in any other activity or conduct in violation of the order by which the license was suspended.

- 2.11 It shall be unlawful for a suspended license holder to operate while the license is suspended.
- 2.12 The Director may deny an application for a certificate of license or its renewal. 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.
- D. Violated any provisions of the "Act" and/or these rules.

- 2.13 Any person to who a certificate of license has been granted ceases to conduct business at the location on file with the department, 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

- 3.1 The Director shall have the authority to deny the issuance of a license. He shall notify the applicant of his decision in writing, stating the reason for the denial. The applicant may appeal the decision, provided he perfects the appeal, in writing, within fourteen (14) days of his notice of rejection. The hearing officer shall hear the appeal within sixty (60) days.
- 3.2 If as a result of its own investigation or as a result of any complaint against a licensee, it is determined that there exists sufficient proof that the actions or the person constitutes a violation of this "Act" or these rules, the director, before taking any action, shall provide twenty (20) days written notice to the person of his right to a hearing. 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. The order and notice shall be served on the person at least twenty (20) prior to the hearing.
- 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 Department.
- 3.4 During the course of a hearing, the Department 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 Department 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 this "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 Department or Complainant.
- 3.7 Hearings shall be conducted by the hearing officer, as defined in Rule 1.1 of these rules.
- 3.8 Hearings shall be held at location to be determined by the Department.
- 3.9 The hearing officer may rule in cases where the affected party fails to attend a hearing.
- 3.10 All decisions of the hearing officer shall be in writing and signed by the Director, and shall include findings of fact and conclusion of law separately stated with an appropriate order entered in accordance with. A copy of the findings of fact, conclusions of law and order shall be sent to each part of the hearing.
- 3.11 The Department will cause to be made an official record of the proceedings.
- 3.12 The affected party may appeal the decision of the Director in accordance with the Arkansas Administrative Procedures Act as amended.