

ARKANSAS MOTOR VEHICLE COMMISSION

Enabling Laws

Act 530 of 2007
Act 388 of 1975 as amended
A.C.A. § 23-112-101 et seq.

History and Organization

The Arkansas Motor Vehicle Commission, funded by special revenue, was created under Act 388 of 1975 by the Seventieth General Assembly of the Arkansas Legislature in Regular Session. Rule I, Rule II and Regulation I were adopted and made part of the act on July 1, 1976 in accordance with the Administrative Procedures Act. In enacting Act 388 of 1975, the Legislature felt a need to exercise the state's police power to ensure a sound system of distributing and selling new motor vehicles through licensing and regulating the manufacturers, distributors, their branch offices and representatives and franchised dealers and salesmen operating within the State of Arkansas. In adopting Rule I and II, the Commission's general organization and hearing procedures were outlined. Regulation I, now Rule 3, is the Commission's attempt to define false and misleading advertising, classified as unauthorized acts under Subsection A, Section 5 in Act 300 of 1975. Act 838 of 1977 was enacted by the Seventy-First General Assembly in Regular Session. Act 838 of 1977 was approved by the Legislature in order to allow the Commission to seek injunctions to prevent violations of the Arkansas Motor Vehicle Commission Act or any Rule or Regulation subsequently adopted.

The objectives of the Arkansas Motor Vehicle Commission, under current statutory authorization, are to administer the requirements connected with the distribution of motor vehicles within the State of Arkansas in a fair and impartial manner, while being consistent in its interpretation of the persons required to be licensed. Act 388 of 1975 affords protection for the franchised dealer relative to attempts by manufacturers and distributors to coerce, intimidate, terminate or threaten to terminate without due cause contractual agreements in existence between the two parties.

Consumer complaints on vehicles covered by the original factory warranty are received and processed in accordance with the statutory authority given the Commission under Act 388 (6)(A)(10) of 1975, Section 6A (10), which provides grounds for suspension or revocation of licenses when warranty responsibilities are not fulfilled by manufacturers and distributors to the detriment of the public welfare.

Acts 620, 645, and 633 of 1987 reduced the number of wheels under the Motor Vehicle Commission Law definition motor vehicles from four (4) to two (2) which required dealers selling new Motorcycles and ATVs to be licensed and regulated by the Commission. Act 1058 of 1985 required the Motor Vehicle Commission to license and regulate all used car dealers and salesmen in the State. Act 169 of 1989 removed the used car dealers and salesmen from the Commission's legal jurisdiction. Act 568 of 1995 removed Wholesalers and Auto Auctions from the Commission's published Act and allowed the Commission's first fee increase since inception.

Act 1154 of 1997 permitted reciprocity with Motor Vehicle Commissions of other states with regard to Motor Vehicle Shows, provided procedures concerning warranty agreements and clarified various definitions.

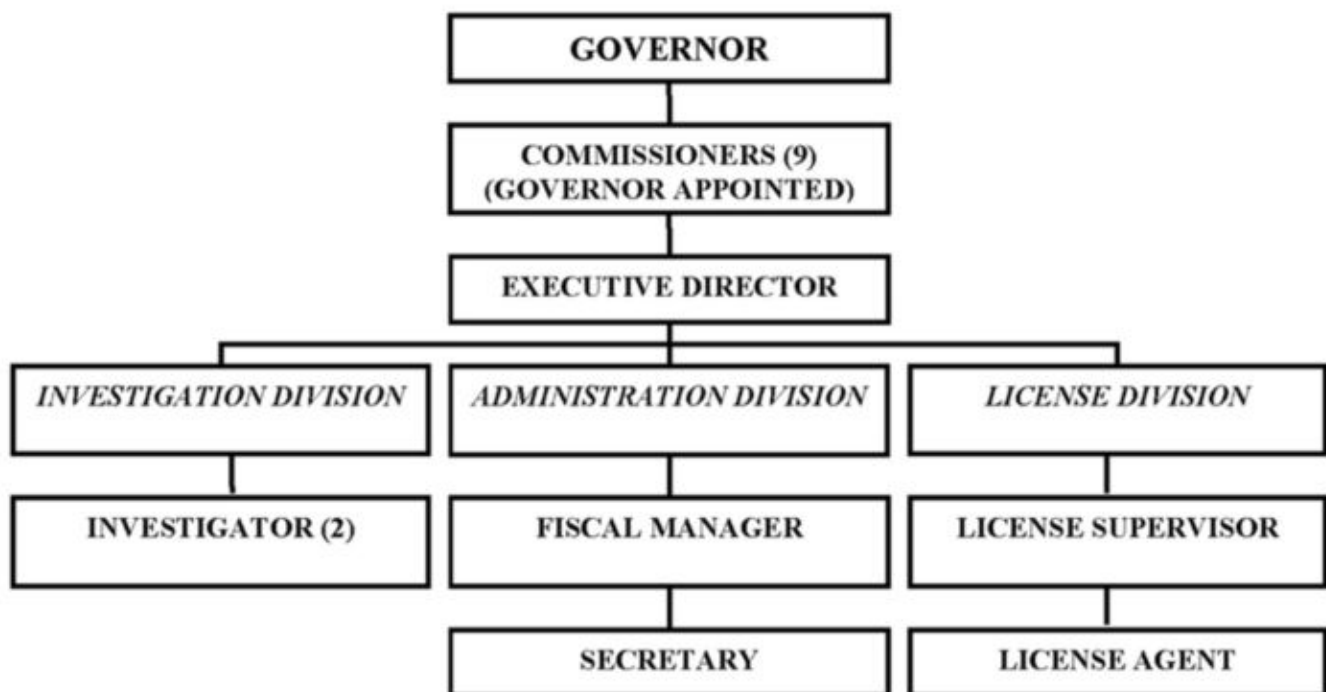
Act 1042 of 1999 primarily amended Subchapter 4, pertaining to unlawful practices by Manufacturers/Distributors.

Act 1053 of 2001 added the definition of ATVs and clarified various definitions. Act 1600 of 2001 provided for motor vehicle dealer Documentary Fees and authorized the Commission to promulgate rules and regulations to implement, enforce and administer the enabling section.

Act 1722 of 2003 authorized the Commission to promulgate rules and regulations to set a reasonable limit on the amount to be charged for a Documentary Fee. Act 1098 of 2003 amended the definition of an ATV, and added motor scooters to the definition of a motor vehicle. Act 1027 of the Second Extraordinary Session of 2003 added Section 106 to Subchapter 1 of the Arkansas Motor Vehicle Commission Act, enabling enforcement by the Commission under certain conditions.

Act 1687 of 2005 established procedures for the delivery prior to sale of a motor vehicle to a consumer.

Act 235 of 2007 provides an exemption for special motorcycle events to allow dealers to display and sell motorcycles at special events that have significant positive economic impact on an area. Act 366 of 2007 amends the Motor Vehicle Consumer Protection Act regarding fees charged for handling and processing the sale or lease of a vehicle. The maximum fee charged can be no more than \$129. Act 746 of 2007 amends the Motor Vehicle Commission Act § 23-112-101 et seq.



Agency Commentary

Funding for this Special Revenue appropriation is derived solely from license fees collected from new motor vehicle manufacturers, distributors, factories and branches, as well as representatives, dealers, sales personnel and motor vehicle lessors. The Commission receives no General Revenue funds.

The Commission's licensee base continues to increase in number, thus increasing the workload and responsibilities of staff. Additionally, in order to meet Agency goals and to fulfill the Mission Statement requirements, the following increases are required to improve Agency administrative processes and accommodate continued investigative and enforcement capabilities.

Increase in Professional Fees each year of the biennium includes:

- Hiring a hearing officer to provide consistent services to the agency. This request is supported by the complexity of franchise laws, the extent of statutory requirements involving franchisees, and the unique regulatory enforcement of licensees, including manufacturers and dealers. Due to the complexity and uniqueness, it is important to provide continuity in service for regularly scheduled Commission meetings.

Increase in Capital Outlay includes:

- Replacement of two (2) vehicles in FY10 and replacement of one (1) vehicle in FY11 in accordance with the State Vehicle Program.

The Commission respectfully requests consideration for the following Agency fiscal requests:

1. A line item increase of \$2,500 each year in Professional Fees.
2. Capital Outlay of \$34,000 in FY10 and \$17,000 in FY11.

Kind consideration and approval of this appropriation request will allow the Arkansas Motor Vehicle Commission to continue service to the consumers and dealers in Arkansas.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS MOTOR VEHICLE COMMISSION

FOR THE YEAR ENDED JUNE 30, 2007

Findings	Recommendations
None	None

Employment Summary

	Male	Female	Total	%	
White Employees	2	4	6	86 %	
Black Employees	1	0	1	14 %	
Other Racial Minorities	0	0	0	0 %	
			Total Minorities	1	14 %
			Total Employees	7	100 %

Publications

A.C.A. 25-1-204

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution
		Governor	General Assembly		
None	N/A	N	N	0	N/A

Agency Position Usage Report

FY2006 - 2007						FY2007 - 2008						FY2008 - 2009					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
7	7	0	7	0	0.00 %	7	7	0	7	0	0.00 %	7	7	0	7	0	0.00 %

Analysis of Budget Request

Appropriation: 048 - Arkansas Motor Vehicle Commission

Funding Sources: SAB - Arkansas Motor Vehicle Commission Fund

The Motor Vehicle Commission uses the resources authorized in this appropriation to regulate and license new car manufacturers, dealers, and salesmen doing business in Arkansas. Funding for this special revenue funded appropriation is derived from license fees paid by automobile salesmen, dealers, manufacturers, and manufacturers' representatives pursuant to A.C.A. § 23-112-101 et seq.

Base Level positions were changed from unclassified to classified to reflect the recommendations of the Pay Plan Study and salaries were adjusted accordingly. A 2.3% Cost of Living Allowance is reflected in the second year of the biennium. The Base Level request for Regular Salaries may include board member Stipend payments and Career Service payments for eligible employees. Personal Services Matching includes a \$75 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$425.

The Commission's Change Level requests total \$36,500 in FY10 and \$19,500 in FY11 and reflect the following:

Professional Fees increase of \$2,500 each year in order to hire a hearing officer to provide consistent services to the Agency.

Capital Outlay in the amount of \$34,000 in FY10 and \$17,000 in FY11 to replace 2 vehicles in FY10 and 1 vehicle in FY11 in accordance with the State Motor Vehicle Program.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 048 - Arkansas Motor Vehicle Commission

Funding Sources: SAB - Arkansas Motor Vehicle Commission Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2007-2008 Actual	2008-2009 Budget	2008-2009 Authorized	2009-2010			2010-2011		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	285,111	283,331	281,331	289,446	289,446	289,446	295,874	295,874	295,874
#Positions		7	7	7	7	7	7	7	7	7
Personal Services Matching	5010003	88,994	84,717	93,511	92,317	92,317	92,317	93,594	93,594	93,594
Operating Expenses	5020002	111,165	181,197	181,197	181,197	181,197	181,197	181,197	181,197	181,197
Conference & Travel Expenses	5050009	2,383	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Professional Fees	5060010	0	5,000	5,000	5,000	7,500	7,500	5,000	7,500	7,500
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	0	13,760	13,760	0	34,000	34,000	0	17,000	17,000
Total		487,653	573,005	579,799	572,960	609,460	609,460	580,665	600,165	600,165
Funding Sources										
Fund Balance	4000005	2,695,205	2,703,902		2,625,897	2,625,897	2,625,897	2,506,437	2,506,437	2,506,437
Special Revenue	4000030	646,350	645,000		603,500	640,000	640,000	620,500	640,000	640,000
Transfer to Workforce Ed	4000682	(150,000)	(150,000)		(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)
Total Funding		3,191,555	3,198,902		3,079,397	3,115,897	3,115,897	2,976,937	2,996,437	2,996,437
Excess Appropriation/(Funding)		(2,703,902)	(2,625,897)		(2,506,437)	(2,506,437)	(2,506,437)	(2,396,272)	(2,396,272)	(2,396,272)
Grand Total		487,653	573,005		572,960	609,460	609,460	580,665	600,165	600,165

Actual and Budget amounts in Regular Salaries exceeds the authorized amount due to the salary adjustments during the 2007-2009 biennium.

Transfer to Workforce Education per Act 530 of 2007, Section 5.

Change Level by Appropriation

Appropriation: 048 - Arkansas Motor Vehicle Commission
Funding Sources: SAB - Arkansas Motor Vehicle Commission Fund

Agency Request

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	572,960	7	572,960	100.0	580,665	7	580,665	100.0
C01	Existing Program	36,500	0	609,460	106.4	19,500	0	600,165	103.4

Executive Recommendation

Change Level		2009-2010	Pos	Cumulative	% of BL	2010-2011	Pos	Cumulative	% of BL
BL	Base Level	572,960	7	572,960	100.0	580,665	7	580,665	100.0
C01	Existing Program	36,500	0	609,460	106.4	19,500	0	600,165	103.4

Justification

C01	Increase in Professional Fees both years of the biennium to provide continuity of service of Hearing Officer for regularly scheduled Commission meetings. Increase in Capital Outlay in order to purchase two (2) vehicles in FY10 and one (1) vehicle in FY11 in according with the State Motor Vehicle Program.
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