

AR MOTOR VEHICLE COMMISSION

Enabling Laws

Act 1573 of 2003

Act 388 of 1975 as amended. A.C.A. § 23-112-101

History and Organization

The Arkansas Motor Vehicle Commission, a "Special Revenue Agency," 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 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.

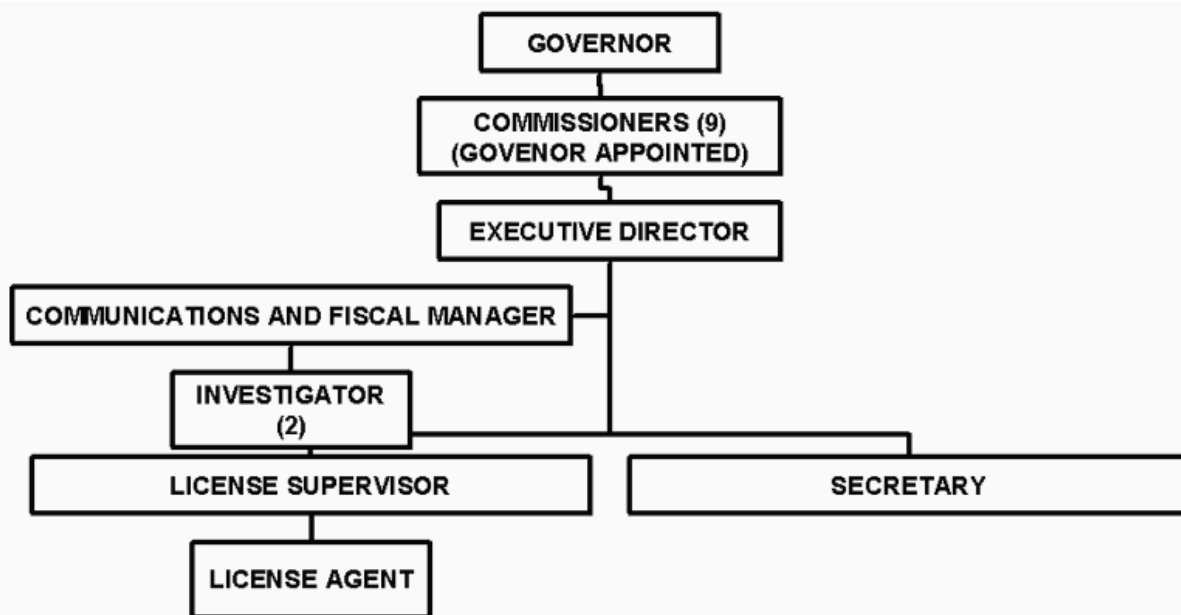
Acts 620, 645, and 633 of 1987 reduced the number of wheels under the Motor Vehicle Commission Law definition motor vehicles from four (4) to two (2) which required dealers selling new Motorcycles and ATVs to be licensed and regulated by the Commission. Act 1058 of 1985 required the Motor Vehicle Commission 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.



Agency Commentary

Act 1098 of 2003 changed the definition of all-terrain vehicle and added motor scooters in the definition of motor vehicle.

The Commission has experienced significant increases in licensing and in unlicensed activity. Since Act 1098 of 2003 was enacted the Commission has located various product lines of utility vehicles, scooters, ATVs and other motor vehicles requiring licensure, being sold and distributed by unlicensed entities.

For the first time in the Commission's history the number of Cycle, ATV and utility vehicle dealers are approaching the number of Auto/Truck dealers. This also results in a proportionate increase in the

number of salespersons, manufacturers, distributors and representatives being licensed.

Due to the proliferation of unlicensed persons selling, or attempting to sell, scooters and ATVs, the Commission is experiencing a large increase in workload, which creates difficulty in addressing other issues in a timely manner. At the present time, the Commission staff performs the duties of investigating complaints, unlicensed entities and miscellaneous other violations, while maintaining their in-office duties.

Therefore, the Commission is requesting the addition of one (1) position of License Supervisor, and two (2) positions of Investigator, and the appropriate funding for salary, equipment and supplies.

The office computers are also nearing the end of their three (3) year replacement cycle. The Commission is asking for funding to replace the computers and servers.

Due to the increased work load on the Commission staff, their experience, the lack of advancement opportunities in a small office, non eligibility for CLIP bonuses and the staffs proven professionalism, the Commission is requesting an 8% pay increase for the Executive Director, Communications/Fiscal Manager, Secretary and License Agent positions, to go into effect July 1, 2005.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS MOTOR VEHICLE COMMISSION
FOR THE YEAR ENDED JUNE 30, 2003

Findings	Recommendations
None	None

Employment Summary

	Male	Female	Total	%
White Employees	2	2	4	100 %
Black Employees	0	0	0	0 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			0	0 %
Total Employees			4	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

Analysis of Budget Request

Appropriation / Program: 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 appropriation is derived from license fees paid by automobile salesmen, dealers, manufacturers, and manufacturers' representatives pursuant to Arkansas Code § 23-112-101 et seq.

Base Level for this appropriation includes graduated salary increases of 3% to 1.5% each year over FY05 salary levels, along with related Personal Services Matching costs for four (4) Base Level positions. Included in Personal Services Matching is a \$40 increase in the monthly contribution for State employee's health insurance for a total State match of \$320 per month.

Personnel requests for the Commission include one (1) additional License Supervisor position, two (2) additional Investigator positions, and 8% extraordinary salary increases for all four (4) employees. The additional positions are requested due to the increase in workload and addition of motor scooter dealers requiring licensure. The extraordinary salary increases are requested due to the increased workload of the Commission and lack of advancement opportunities.

The Commission is requesting increases in the Operating Expenses line item totaling \$58,129 in FY06 and \$56,379 in FY07. The increases are requested to cover expenses for the additional positions such as postage, wireless, vehicle maintenance, meals, lodging, board member travel, vehicle insurance, tuition, vehicle license, enforcement expenses, and office supplies. The Commission is also requesting \$1,000 each year in the Travel line item to attend advertising seminars with dealers. Capital Outlay requests total \$85,000 in FY06 and \$35,000 in FY07. In FY06, the request includes the purchase of three (3) additional vehicles, and three (3) laptops, for the additional positions and replacement of one of the existing servers for the office. The request for FY07 is to replace the other existing vehicle and server for the office.

The Executive Recommendation does not provide for the extraordinary salary increases for the existing positions, but does provide for two (2) additional Investigator positions along with the supporting costs in Operating Expenses of \$28,779 each year. In the Travel line item, \$1,000 each year is recommended. In the Capital Outlay line item, a total of \$62,000 in FY06 is recommended to cover the cost of two (2) vehicles, two (2) laptops, and replacement of one (1) existing server for the office, and a total of \$35,000 in FY07 is recommended to replace the other existing server and vehicle.

Appropriation / Program Summary

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

Commitment Item	Historical Data			Agency Request and Executive Recommendation					
	2003-2004 Actual	2004-2005 Budget	2004-2005 Authorized	2005-2006			2006-2007		
				Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries 5010000	148,605	154,385	154,529	158,894	263,237	218,894	163,520	270,958	225,320
#Positions	4	4	4	4	7	6	4	7	6
Personal Services Matching 5010003	39,666	42,417	40,807	45,232	76,368	64,192	46,101	77,819	65,401
Operating Expenses 5020002	98,447	107,318	107,318	107,318	165,447	136,097	107,318	163,697	136,097
Travel-Conference Fees 5050009	3,705	4,000	4,000	4,000	5,000	5,000	4,000	5,000	5,000
Professional Fees and Services 5060010	1,187	9,661	9,661	9,661	9,661	9,661	9,661	9,661	9,661
Data Processing 5090012	0	0	0	0	0	0	0	0	0
Capital Outlay 5120011	4,658	5,500	5,500	0	85,000	62,000	0	35,000	35,000
Total	296,268	323,281	321,815	325,105	604,713	495,844	330,600	562,135	476,479
Funding Sources									
Fund Balance 4000005	1,699,233	1,968,457		2,218,176	2,218,176	2,218,176	2,198,463	2,198,463	2,307,332
Special Revenue 4000030	565,492	573,000		305,392	585,000	585,000	358,465	590,000	590,000
Total Funding	2,264,725	2,541,457		2,523,568	2,803,176	2,803,176	2,556,928	2,788,463	2,897,332
Excess Appropriation/(Funding)	(1,968,457)	(2,218,176)		(2,198,463)	(2,198,463)	(2,307,332)	(2,226,328)	(2,226,328)	(2,420,853)
Grand Total	296,268	323,281		325,105	604,713	495,844	330,600	562,135	476,479

The FY05 Budgeted amount in Personal Services Matching exceeds the authorized amount due to matching rate adjustments during the 2003-05 biennium.

Change Level by Appropriation

Appropriation / Program: 048-Arkansas Motor Vehicle Commission

Funding Sources: SAB - Arkansas Motor Vehicle Commission Fund

Agency Request

Change Level		2005-2006	Pos	Cumulative	% of BL	2006-2007	Pos	Cumulative	% of BL
BL	Base Level	325,105	4	325,105	100.0	330,600	4	330,600	100.0
C01	Existing Program	179,081	1	504,186	155.0	128,631	1	459,231	138.9
C02	New Program	78,960	2	583,146	179.3	81,100	2	540,331	163.4
C08	Technology	12,250	0	595,396	183.1	12,250	0	552,581	167.1
C15	Ex Salary Increase	9,317	0	604,713	186.0	9,554	0	562,135	170.0

Executive Recommendation

Change Level		2005-2006	Pos	Cumulative	% of BL	2006-2007	Pos	Cumulative	% of BL
BL	Base Level	325,105	4	325,105	100.0	330,600	4	330,600	100.0
C01	Existing Program	89,529	0	414,634	127.5	62,529	0	393,129	118.9
C02	New Program	78,960	2	493,594	151.8	81,100	2	474,229	143.4
C08	Technology	2,250	0	495,844	152.5	2,250	0	476,479	144.1
C15	Ex Salary Increase	0	0	495,844	152.5	0	0	476,479	144.1

Justification

C01	This request is for a new License Supv. position due to an increase in workload, various Operating line items, and to purchase 3 vehicles.
C02	This request is for 2 Investigator positions due to increase in workload and addition of motor scooters required to be licensed.
C08	This request is to replace data processing equipment due to age and purchase computers and supplies for new positions.
C15	This request is for all 4 positions due to increase in range of duties and lack of advancement opportunities.