

# An Act

ENROLLED HOUSE  
BILL NO. 1094

By: Osburn and Munson of the  
House

and

Smalley of the Senate

An Act relating to motor vehicles; amending 47 O.S. 2011, Sections 564, as amended by Section 2, Chapter 191, O.S.L. 2013, 565, as amended by Section 1, Chapter 402, O.S.L. 2014, 581, as last amended by Section 1, Chapter 223, O.S.L. 2015, 582, as amended by Section 179, Chapter 304, O.S.L. 2012, 583, as last amended by Section 1, Chapter 386, O.S.L. 2015 and 584, as amended by Section 3, Chapter 145, O.S.L. 2013 (47 O.S. Supp. 2018, Sections 564, 565, 581, 582, 583 and 584), which relate to motor vehicle and manufactured home sales licensing; deleting requirement for motor vehicles and manufactured homes salesperson licenses; setting penalty for noncompliance; requiring new motor vehicle, used motor vehicle and manufactured home salespersons to obtain certificate of registration; setting cost of annual registration; directing the Oklahoma Motor Vehicle Commission to promulgate certain rules and procedures; directing the Oklahoma Used Motor Vehicle and Parts Commission to promulgate certain rules and procedures; providing for codification; and providing an effective date.

SUBJECT: Motor vehicle and manufactured home sales licensing

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 47 O.S. 2011, Section 564, as amended by Section 2, Chapter 191, O.S.L. 2013 (47 O.S. Supp. 2018, Section 564), is amended to read as follows:

Section 564. A. It shall be unlawful for any person, firm, association, corporation or trust to engage in business as, or serve in the capacity of, or act as a motor vehicle dealer, ~~or motor vehicle salesperson,~~ or manufacturer or distributor of new motor vehicles, or factory branch, distributor branch or factory representative or distributor representative, as such, in this state without first obtaining a license therefor as provided for by law. Any person, firm, association, corporation or trust engaging in more than one of such capacities or having more than one place where such business is carried on or conducted shall be required to obtain and hold a current license for each thereof. Provided that, a new motor vehicle dealer's license shall authorize one person to sell ~~without a salesperson's license~~ in the event such person shall be the owner of a proprietorship, or the person designated as principal in the dealer's franchise or the managing officer or one partner if no principal person is named in the franchise.

B. Applications for licenses required to be obtained under provisions of Section 561 et seq. of this title shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Oklahoma Motor Vehicle Commission and furnished to such applicants, and shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The Commission shall require in such application, or otherwise, information relating to the applicant's financial standing, the applicant's business integrity, whether the applicant has an established place of business and is primarily engaged in the pursuit, avocation or business for which a license, or licenses, are applied for, and whether the applicant is able to properly conduct the business for which a license, or licenses, are applied for, and such other pertinent information consistent with the safeguarding of the public interest and the public welfare. All such applications for license or licenses shall be accompanied by the appropriate fee or fees therefor in accordance with the schedule thereof hereinafter set out. In the event any such application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant. All licenses issued under the provisions of Section 561 et seq. of this title shall expire on June 30, following the date of issue and shall be nontransferable. All applications for renewal of a license for a new motor vehicle dealer, ~~salesperson,~~ manufacturer, distributor or manufacturer's or distributor's representative shall be submitted by June 1 of each year, and such license or licenses

will be issued by July 1. If applications have not been made for renewal of licenses at the times described in this subsection, it shall be illegal for any person to represent himself or herself and act as a dealer, ~~salesperson~~, manufacturer, distributor or manufacturer's or distributor's representative. Motor license agents will be notified not to accept such dealers' titles until such time as licenses have been issued by the Commission.

~~Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are licensed.~~

C. The schedule of license fees to be charged and received by the Commission for the licenses issued hereunder shall be as follows:

1. For each factory branch or distributor branch, Four Hundred Dollars (\$400.00) initial fee with annual renewal fee of Three Hundred Dollars (\$300.00);

2. For each manufacturer or distributor of new motor vehicles, Four Hundred Dollars (\$400.00) initial fee with annual renewal fee of Three Hundred Dollars (\$300.00);

3. For each factory representative or distributor representative, One Hundred Dollars (\$100.00) annually;

4. For each new motor vehicle dealer, except powersports vehicle dealers, initial fee of Three Hundred Dollars (\$300.00) per franchise sold at each location licensed, with an annual renewal fee of One Hundred Dollars (\$100.00) per franchise sold at each location per year; and

5. For each powersports vehicle dealer, initial fee of Three Hundred Dollars (\$300.00) per manufacturer represented by the dealer at each location licensed, with an annual renewal fee of One Hundred Dollars (\$100.00) per manufacturer represented by the dealer at each location licensed per year; ~~and~~

~~6. For each salesperson, Twenty-five Dollars (\$25.00) renewed annually.~~

D. The licenses issued to each new motor vehicle dealer, manufacturer, distributor, factory branch, distributor branch or representative, if a corporation, shall specify the location of the factory, office or branch thereof. In case such location is

changed, the Commission may endorse the change of location on the license without charge unless the change of address triggers a relocation of a new motor vehicle dealer pursuant to the provisions of Section 578.1 of this title. The license of each dealer shall be posted in a conspicuous place in the dealer's place or places of business.

Every motor vehicle ~~salesperson~~, factory representative or distributor representative if an individual shall physically possess the license when engaged in business, and shall display same upon request. The name of the employer of such ~~salesperson~~, factory representative or distributor representative shall be stated on the license and, in case of a change of employer, the holder of such license shall immediately mail same to the Commission for its endorsement of such change thereon. The Commission shall endorse each such change of employer on licenses for a fee of Ten Dollars (\$10.00).

E. The powersports dealer license shall only allow the sale of the specific types of powersports vehicles authorized by the manufacturer and agreed to by the powersports dealer.

SECTION 2. AMENDATORY 47 O.S. 2011, Section 565, as amended by Section 1, Chapter 402, O.S.L. 2014 (47 O.S. Supp. 2018, Section 565), is amended to read as follows:

Section 565. A. The Oklahoma Motor Vehicle Commission may deny an application for a license, or revoke or suspend a license or impose a fine not to exceed Ten Thousand Dollars (\$10,000.00) against a manufacturer or distributor or a fine not to exceed One Thousand Dollars (\$1,000.00) against a dealer per occurrence that any provision of Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title is violated or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant in any application for any license under the provisions of Section 561 et seq. of this title;

2. For any material misstatement made by an applicant in any application for any license under the provisions of Section 561 et seq. of this title;

3. For any failure to comply with any provision of Section 561 et seq. of this title or any rule promulgated by the Commission under authority vested in it by Section 561 et seq. of this title;

4. A change of condition after license is granted resulting in failure to maintain the qualifications for license;

5. Being a new motor vehicle dealer ~~or new motor vehicle salesperson~~ who:

- a. has required a purchaser of a new motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories or equipment not desired or requested by the purchaser and installed by the dealer,
- b. uses any false or misleading advertising in connection with business as a new motor vehicle dealer ~~or vehicle salesperson~~,
- c. has committed any unlawful act which resulted in the revocation of any similar license in another state,
- d. has failed or refused to perform any written agreement with any retail buyer involving the sale of a motor vehicle,
- e. has been convicted of a crime involving moral turpitude,
- f. has committed a fraudulent act in selling, purchasing or otherwise dealing in new motor vehicles or has misrepresented the terms and conditions of a sale, purchase or contract for sale or purchase of a new motor vehicle or any interest therein including an option to purchase such vehicle,
- g. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license~~+~~, or
- h. completes any sale or transaction of an extended service contract, extended maintenance plan, or similar product using contract forms that do not conspicuously disclose the identity of the service contract provider;

6. Being a new motor vehicle salesperson who is not employed as such by a licensed new motor vehicle dealer;

7. Being a new motor vehicle dealer who:

- a. does not have an established place of business,
- b. does not provide for a suitable repair shop separate from the display room with ample space to repair or recondition one or more vehicles at the same time, and which is equipped with such parts, tools and equipment as may be requisite for the servicing of motor vehicles in such a manner as to make them comply with the safety laws of this state and to properly fulfill the dealer's or manufacturer's warranty obligation,
- c. does not hold a franchise in effect with a manufacturer or distributor of new or unused motor vehicles for the sale of the same and is not authorized by the manufacturer or distributor to render predelivery preparation of such vehicles sold to purchasers and to perform any authorized post-sale work pursuant to the manufacturer's or distributor's warranty,
- d. ~~employs unlicensed salespersons, or~~ employs or utilizes the services of used motor vehicle lots or dealers or other unlicensed persons in connection with the sale of new motor vehicles,
- e. does not properly service a new motor vehicle before delivery of same to the original purchaser thereof, or
- f. fails to order and stock a reasonable number of new motor vehicles necessary to meet customer demand for each of the new motor vehicles included in the new motor vehicle dealer's franchise agreement, unless the new motor vehicles are not readily available from the manufacturer or distributor due to limited production;

8. Being a factory that has:

- a. either induced or attempted to induce by means of coercion or intimidation, any new motor vehicle dealer:

- (1) to accept delivery of any motor vehicle or vehicles, parts or accessories therefor, or any other commodities including advertising material which shall not have been ordered by the new motor vehicle dealer,
  - (2) to order or accept delivery of any motor vehicle with special features, appliances, accessories or equipment not included in the list price of the motor vehicles as publicly advertised by the manufacturer thereof, or
  - (3) to order or accept delivery of any parts, accessories, equipment, machinery, tools, appliances or any commodity whatsoever, or
- b. induced under threat or discrimination by the withholding from delivery to a motor vehicle dealer certain models of motor vehicles, changing or amending unilaterally the dealer's allotment of motor vehicles and/or withholding and delaying delivery of such vehicles out of the ordinary course of business, in order to induce by such coercion any such dealer to participate or contribute to any local or national advertising fund controlled directly or indirectly by the factory or for any other purposes such as contest, "give-aways" or other so-called sales promotional devices and/or change of quotas in any sales contest; or has required motor vehicle dealers, as a condition to receiving their vehicle allotment, to order a certain percentage of the vehicles with optional equipment not specified by the new motor vehicle dealer; however, nothing in this section shall prohibit a factory from supporting an advertising association which is open to all dealers on the same basis;

9. Being a factory that:

- a. has attempted to coerce or has coerced any new motor vehicle dealer to enter into any agreement or to cancel any agreement, or fails to act in good faith and in a fair, equitable and nondiscriminatory manner; or has directly or indirectly coerced, intimidated,

threatened or restrained any motor vehicle dealer; or has acted dishonestly, or has failed to act in accordance with the reasonable standards of fair dealing,

- b. has failed to compensate its dealers for the work and services they are required to perform in connection with the dealer's delivery and preparation obligations according to the agreements on file with the Commission which must be found by the Commission to be reasonable, or fail to adequately and fairly compensate its dealers for labor, parts and other expenses incurred by such dealer to perform under and comply with manufacturer's warranty agreements. Adequate and fair compensation for parts shall be established by the dealer submitting to the manufacturer or distributor one hundred sequential nonwarranty customer-paid service repair orders which contain warranty-like parts, or ninety (90) consecutive days of nonwarranty customer-paid service repair orders which contain warranty-like parts, whichever is less, covering repairs made no more than one hundred eighty (180) days before the submission and declaring the average percentage markup. Adequate and fair compensation for labor shall be established by the dealer submitting to the manufacturer or distributor one hundred sequential customer-paid service repair orders which contain labor charges, or ninety (90) consecutive days of customer-paid service repair orders which contain labor charges, whichever is less. When submitting repair orders to calculate a labor rate, a dealer need not include repair orders for routine maintenance. A manufacturer or distributor may, not later than thirty (30) days after submission, rebut that declared rate in writing by reasonably substantiating that the rate is inaccurate or unreasonable in light of the practices of all other franchised motor vehicle dealers in an economically similar part of the state offering the same line-make vehicles. The retail rate shall go into effect thirty (30) days following the approval by the manufacturer, subject to audit of the submitted repair orders by the franchisor and a rebuttal of the declared rate as described above. If the declared rate is rebutted, the manufacturer or distributor shall propose an



adjustment in writing of the average percentage markup based on that rebuttal not later than thirty (30) days after submission. If the dealer does not agree with the proposed average percentage markup, the dealer may file a protest with the Commission not later than thirty (30) days after receipt of that proposal by the manufacturer or distributor. In the event a protest is filed, the manufacturer or distributor shall have the burden of proof to establish the new motor vehicle dealer's submitted rate was inaccurate or unreasonable in light of the practices of all other franchised motor vehicle dealers in an economically similar part of the state. A manufacturer or distributor may not retaliate against any new motor vehicle dealer seeking to exercise its rights under this provision. A manufacturer or distributor may require a dealer to submit repair orders in accordance with this section in order to validate a dealer's retail rate for parts or labor not more often than once every twelve (12) months. All claims made by dealers for compensation for delivery, preparation and warranty work shall be paid within thirty (30) days after approval and shall be approved or disapproved within thirty (30) days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. The dealer's delivery, preparation and warranty obligations as filed with the Commission shall constitute the dealer's sole responsibility for product liability as between the dealer and manufacturer. A factory may reasonably and periodically audit a new motor vehicle dealer to determine the validity of paid claims for dealer compensation or any charge-backs for warranty parts or service compensation. Except in cases of suspected fraud, audits of warranty payments shall only be for the one-year period immediately following the date of the payment. A manufacturer shall reserve the right to reasonable, periodic audits to determine the validity of paid claims for dealer compensation or any charge-backs for consumer or dealer incentives. Except in cases of suspected fraud, audits of incentive payments shall only be for a one-year period immediately following the date of the payment. A factory shall not deny a claim or charge a new motor

vehicle dealer back subsequent to the payment of the claim unless the factory can show that the claim was false or fraudulent or that the new motor vehicle dealer failed to reasonably substantiate the claim by the written reasonable procedures of the factory. The factory shall provide written notice to a dealer of a proposed charge-back that is the result of an audit along with the specific audit results and proposed charge-back amount. A dealer that receives notice of a proposed charge-back pursuant to a factory's audit has the right to file a protest with the Commission within thirty (30) days after receipt of the notice of the charge-back or audit results, whichever is later. The factory is prohibited from implementing the charge-back or debiting the dealer's account until either the time frame for filing a protest has passed or a final adjudication is rendered by the Commission, whichever is later, unless the dealer has agreed to the charge-back or charge-backs,

- c. unreasonably fails or refuses to offer to its same line-make franchised dealers all models manufactured for that line-make, or unreasonably requires a dealer to pay any extra fee, purchase unreasonable advertising displays or other materials, or remodel, renovate, or recondition the dealer's existing facilities as a prerequisite to receiving a model or series of vehicles. The failure to deliver any such new motor vehicle shall not be considered a violation of the section if the failure is not arbitrary or is due to lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo or other cause over which the manufacturer has no control. However, this subparagraph shall not apply to recreational vehicles or limited production model vehicles,
- d. except as necessary to comply with a health or safety law, or to comply with a technology requirement which is necessary to sell or service a motor vehicle that the franchised motor vehicle dealer is authorized or licensed by the franchisor to sell or service, requires a new motor vehicle dealer to construct a new facility or

substantially renovate the new motor vehicle dealer's existing facility unless the facility construction or renovation is justified by the economic conditions existing at the time, as well as the reasonably foreseeable projections, in the automotive industry. However, this subparagraph shall not apply if the factory provides money, credit, allowance, reimbursement, or additional vehicle allocation to a dealer to compensate the dealer for the cost of, or a portion of the cost of, the facility construction or renovation,

- e. requires a new motor vehicle dealer to establish an exclusive facility, unless supported by reasonable business, market and economic considerations; provided, that this provision shall not restrict the terms of any agreement for such exclusive facility voluntarily entered into and supported by valuable consideration separate from the new motor vehicle dealer's right to sell and service motor vehicles for the franchisor,
- f. requires a new motor vehicle dealer to enter into a site-control agreement covering any or all of the new motor vehicle dealer's facilities or premises; provided, that this provision shall not restrict the terms of any site-control agreement voluntarily entered into and supported by valuable consideration separate from the new motor vehicle dealer's right to sell and service motor vehicles for the franchisor. Notwithstanding the foregoing or the terms of any site-control agreement, a site-control agreement automatically extinguishes if all of the factory's franchises that operated from the location that are the subject of the site-control agreement are terminated by the factory as part of the discontinuance of a product line, or
- g. requires a new motor vehicle dealer to purchase goods or services for the construction, renovation, or improvement of the dealer's facility from a vendor chosen by the factory if goods or services available from other sources are of substantially similar quality and design and comply with all applicable laws; provided,

however, that such goods are not subject to the factory's intellectual property or trademark rights and the new motor vehicle dealer has received the factory's approval, which approval may not be unreasonably withheld. Nothing in this subparagraph may be construed to allow a new motor vehicle dealer to impair or eliminate a factory's intellectual property, trademark rights or trade dress usage guidelines. Nothing in this section prohibits the enforcement of a voluntary agreement between the factory and the new motor vehicle dealer where separate and valuable consideration has been offered and accepted;

10. Being a factory that establishes a system of motor vehicle allocation or distribution which is unfair, inequitable or unreasonably discriminatory. Upon the request of any dealer franchised by it, a factory shall disclose in writing to the dealer the basis upon which new motor vehicles are allocated, scheduled and delivered among the dealers of the same line-make for that factory;

11. Being a factory that sells directly or indirectly new motor vehicles to any retail consumer in the state except through a new motor vehicle dealer holding a franchise for the line-make that includes the new motor vehicle. This paragraph does not apply to factory sales of new motor vehicles to its employees, family members of employees, retirees and family members of retirees, not-for-profit organizations or the federal, state or local governments. The provisions of this paragraph shall not preclude a factory from providing information to a consumer for the purpose of marketing or facilitating a sale of a new motor vehicle or from establishing a program to sell or offer to sell new motor vehicles through participating dealers;

12. a. Being a factory which directly or indirectly:

- (1) owns any ownership interest or has any financial interest in a new motor vehicle dealer or any person who sells products or services to the public,
- (2) operates or controls a new motor vehicle dealer,  
or

- (3) acts in the capacity of a new motor vehicle dealer.
- b.
- (1) This paragraph does not prohibit a factory from owning or controlling a new motor vehicle dealer while in a bona fide relationship with a dealer development candidate who has made a substantial initial investment in the franchise and whose initial investment is subject to potential loss. The dealer development candidate can reasonably expect to acquire full ownership of a new motor vehicle dealer within a reasonable period of time not to exceed ten (10) years and on reasonable terms and conditions. The ten-year acquisition period may be expanded for good cause shown.
  - (2) This paragraph does not prohibit a factory from owning, operating, controlling or acting in the capacity of a motor vehicle dealer for a period not to exceed twelve (12) months during the transition from one dealer to another dealer if the dealership is for sale at a reasonable price and on reasonable terms and conditions to an independent qualified buyer. On showing by a factory of good cause, the Oklahoma Motor Vehicle Commission may extend the time limit set forth above; extensions may be granted for periods not to exceed twelve (12) months.
  - (3) This paragraph does not prohibit a factory from owning, operating or controlling or acting in the capacity of a motor vehicle dealer which was in operation prior to January 1, 2000.
  - (4) This paragraph does not prohibit a factory from owning, directly or indirectly, a minority interest in an entity that owns, operates or controls motor vehicle dealerships of the same line-make franchised by the manufacturer, provided that each of the following conditions are met:
    - (a) all of the motor vehicle dealerships selling the motor vehicles of that manufacturer in

this state trade exclusively in the line-make of that manufacturer,

- (b) all of the franchise agreements of the manufacturer confer rights on the dealer of the line-make to develop and operate, within a defined geographic territory or area, as many dealership facilities as the dealer and manufacturer shall agree are appropriate,
- (c) at the time the manufacturer first acquires an ownership interest or assumes operation, the distance between any dealership thus owned or operated and the nearest unaffiliated motor vehicle dealership trading in the same line-make is not less than seventy (70) miles,
- (d) during any period in which the manufacturer has such an ownership interest, the manufacturer has no more than three franchise agreements with new motor vehicle dealers licensed by the Oklahoma Motor Vehicle Commission to do business within the state, and
- (e) prior to January 1, 2000, the factory shall have furnished or made available to prospective motor vehicle dealers an offering-circular in accordance with the Trade Regulation Rule on Franchising of the Federal Trade Commission, and any guidelines and exemptions issued thereunder, which disclose the possibility that the factory may from time to time seek to own or acquire, directly or indirectly, ownership interests in retail dealerships;

13. Being a factory which directly or indirectly makes available for public disclosure any proprietary information provided to the factory by a new motor vehicle dealer, other than in composite form to dealers in the same line-make or in response to a subpoena or order of the Commission or a court. Proprietary information includes, but is not limited to, information based on:

- a. any information derived from monthly financial statements provided to the factory, and
- b. any information regarding any aspect of the profitability of a particular new motor vehicle dealer;

14. Being a factory which does not provide or direct leads in a fair, equitable and timely manner. Nothing in this paragraph shall be construed to require a factory to disregard the preference of a consumer in providing or directing a lead;

15. Being a factory which used the customer list of a new motor vehicle dealer for the purpose of unfairly competing with dealers;

16. Being a factory which prohibits a new motor vehicle dealer from relocating after a written request by such new motor vehicle dealer if:

- a. the facility and the proposed new location satisfies or meets the written reasonable guidelines of the factory. Reasonable guidelines do not include site control unless agreed to as set forth in subparagraphs e and f of paragraph 9 of this subsection,
- b. the proposed new location is within the area of responsibility of the new motor vehicle dealer pursuant to Section 578.1 of this title, and
- c. the factory has sixty (60) days from receipt of the new motor vehicle dealer's relocation request to approve or deny the request. The failure to approve or deny the request within the sixty-day time frame shall constitute approval of the request;

17. Being a factory which prohibits a new motor vehicle dealer from adding additional line-makes to its existing facility, if, after adding the additional line-makes, the facility satisfies the written reasonable capitalization standards and facility guidelines of each factory. Reasonable facility guidelines do not include a requirement to maintain site control unless agreed to by the dealer as set forth in subparagraphs e and f of paragraph 9 of this subsection;

18. Being a factory that increases prices of new motor vehicles which the new motor vehicle dealer had ordered for retail consumers and notified the factory prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a retail consumer accompanied with proof of order submission to the factory shall constitute evidence of each such order, provided that the vehicle is in fact delivered to the customer. Price differences applicable to new models or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase for purposes of this paragraph. Price changes caused by any of the following shall not be subject to the provisions of this paragraph:

- a. the addition to a motor vehicle of required or optional equipment pursuant to state or federal law,
- b. revaluation of the United States dollar in the case of foreign-made vehicles or components, or
- c. an increase in transportation charges due to increased rates imposed by common or contract carriers;

19. Being a factory that requires a new motor vehicle dealer to participate monetarily in an advertising campaign or contest, or purchase any promotional materials, showroom or other display decoration or materials at the expense of the new motor vehicle dealer without consent of the dealer, which consent shall not be unreasonably withheld;

20. Being a factory that denies any new motor vehicle dealer the right of free association with any other new motor vehicle dealer for any lawful purpose, unless otherwise permitted by this chapter; or

21. Being a factory that requires a new motor vehicle dealer to sell, offer to sell or sell exclusively an extended service ~~contract~~ contract, extended maintenance plan or similar product, such as gap products offered, endorsed or sponsored by the factory by the following means:

- a. by an act or statement from the factory that will in any manner adversely impact the dealer,
- b. by measuring the dealer's performance under the franchise based on the sale of extended service



contracts, extended maintenance plans or similar products offered, endorsed or sponsored by the manufacturer or distributor.

B. Notwithstanding the terms of any franchise agreement, in the event of a proposed sale or transfer of a dealership, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the assets or ownership interest of the dealer of the new vehicle dealership, if such sale or transfer is conditioned upon the manufacturer or dealer entering into a dealer agreement with the proposed new owner or transferee, only if all the following requirements are met:

1. To exercise its right of first refusal, the factory must notify the dealer in writing within sixty (60) days of receipt of the completed proposal for the proposed sale transfer;

2. The exercise of the right of first refusal will result in the dealer and the owner of the dealership receiving the same or greater consideration as they have contracted to receive in connection with the proposed change of ownership or transfer;

3. The proposed sale or transfer of the assets of the dealership does not involve the transfer or sale to a member or members of the family of one or more dealer owners, or to a qualified manager or a partnership or corporation controlled by such persons; and

4. The factory agrees to pay the reasonable expenses, including attorney fees which do not exceed the usual, customary and reasonable fees charged for similar work done for other clients incurred by the proposed new owner and transferee prior to the exercise by the factory of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets. Notwithstanding the foregoing, no payment of expenses and attorney fees shall be required if the proposed new dealer or transferee has not submitted or caused to be submitted an accounting of those expenses within thirty (30) days of receipt of the written request of the factory for such an accounting. The accounting may be requested by a factory before exercising its right of first refusal.

C. Nothing in this section shall prohibit, limit, restrict or impose conditions on:

1. Business activities, including without limitation the dealings with motor vehicle manufacturers and the representatives and affiliates of motor vehicle manufacturers, of any person that is primarily engaged in the business of short-term, not to exceed twelve (12) months, rental of motor vehicles and industrial and construction equipment and activities incidental to that business, provided that:

- a. any motor vehicle sold by that person is limited to used motor vehicles that have been previously used exclusively and regularly by that person in the conduct of business and used motor vehicles traded in on motor vehicles sold by that person,
- b. warranty repairs performed by that person on motor vehicles are limited to those motor vehicles that it owns, previously owned or takes in trade, and
- c. motor vehicle financing provided by that person to retail consumers for motor vehicles is limited to used vehicles sold by that person in the conduct of business; or

2. The direct or indirect ownership, affiliation or control of a person described in paragraph 1 of this subsection.

SECTION 3. AMENDATORY 47 O.S. 2011, Section 581, as last amended by Section 1, Chapter 223, O.S.L. 2015 (47 O.S. Supp. 2018, Section 581), is amended to read as follows:

Section 581. As used in Section 581 et seq. of this title:

1. "Commission" means the Oklahoma Used Motor Vehicle and Parts Commission;

2. "Compensation" means anything of value including money, merchandise, rebates on purchases, trading stamps or any other thing of value;

3. "Consignment sale" means the sale of used motor vehicles belonging to another by a used motor vehicle dealer, whether or not title is transferred from the consignor to the used motor vehicle dealer;

4. "Factory" means a manufacturer, distributor, factory branch, distributor branch, factory representative or distributor representative, which manufactures or distributes vehicle products;

5. "Manufactured home" means a residential dwelling in one or more sections built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401, et seq. and rules promulgated pursuant thereto;

6. a. "Manufactured home dealer" means any person who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, offers to sell, or attempts to negotiate a sale or exchange of interest in, new or used manufactured homes, or that is engaged wholly or in part in the business of selling any new and unused, or used, or both new and used manufactured homes. A valid franchise letter as proof of authorization to sell any new manufactured home product line or lines shall be attached to the application for a dealer license to sell manufactured homes. "Manufactured home dealer" shall include a manufactured home auction. A manufactured home auction shall mean any person selling more than twenty-five manufactured homes in an auction or liquidation format. Only licensed manufactured home dealers shall be authorized to purchase manufactured homes at such auctions.
- b. "Manufactured home dealer" shall not include any person who sells or contracts for the sale of a personally titled manufactured home or homes, or any person acting as an auctioneer who has been engaged by a seller to direct, conduct, control, or be responsible for the sale of manufactured homes as a part of an auction or liquidation of an estate, or any Oklahoma licensed real estate broker or sales associate when buying or selling used mobile homes as a part of a real estate business. No person shall be considered a manufactured home dealer as to any manufactured home purchased or acquired by the person for purposes other than resale; provided, that the restriction set forth in this sentence shall not prevent an otherwise qualified person from

utilizing a single manufactured home as a sales office.

- c. A holder of a lien on a manufactured home may sell, exchange, or transfer by lease-purchase the repossessed manufactured home and shall not be required to be licensed pursuant to this chapter. If the lienholder contracts with a person or company to sell the repossessed manufactured home and the person or company is not an employee, officer or principal of the lienholder, such person or company shall be licensed pursuant to this chapter.
- d. "Manufactured home dealer" shall not include any person who sells mobile or manufactured homes located in a mobile or manufactured home park or community;

7. "Manufactured home salesperson" means any person who has been engaged by a manufactured home dealer to buy, sell, exchange, negotiate, or act as an agent for the purchase, sale, or exchange of an interest in a manufactured home. ~~A person may not act as a salesperson nor may a manufactured home dealer employ the salesperson without applying for a salesperson's license within thirty (30) days of employment by the manufactured home dealer;~~

8. "Manufactured home installer" means a person who is engaged in the business of installing or setting up manufactured homes and/or mobile homes as defined herein;

9. "Manufactured home manufacturer" means a person who manufactures, assembles, and sells new manufactured homes to new manufactured home retailers for resale in this state;

10. "Mobile home" means a residential dwelling fabricated in an off-site manufacturing facility, designed to be a permanent residence, but which is still transportable, that was built prior to the enacting of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq.;

11. "Person" means an individual, business, corporation, partnership, association, limited liability corporation, trust, firm, or company or legal entity, but does not include any political subdivision;

12. "Ready for occupancy" means a mobile or manufactured home which is installed and anchored properly and has utilities connected to service;

13. "Rebuilder" means a used motor vehicle dealer who is engaged in the business of rebuilding repairable motor vehicles and who has paid the fee for and been issued a rebuilder certificate as provided by Section 591.5 of this title;

14. "Restricted manufactured home park dealer" means any person operating a mobile or manufactured home park who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, offers to sell, or attempts to negotiate a sale or exchange of interest in, new or used manufactured homes, or that is engaged wholly or in part in the business of selling any new and unused, or used, or both new and used manufactured homes; provided, every mobile or manufactured home sold pursuant to a restricted manufactured home park dealer license shall be located in the licensed mobile or manufactured home park and ready for occupancy;

15. "Retail implement dealer" means a business engaged primarily in the sale of farm tractors as defined in Section 1-118 of this title or implements of husbandry as defined in Section 1-125 of this title or a combination thereof;

16. "Sale" or "sell" means the act of selling, brokering, exchanging, exchanging of an interest in, or renting with the option of purchasing, a new or used manufactured home for commission, profit, or gain of money or other thing of value;

17. "Used motor vehicle" means any motor vehicle, as that term is defined in the Oklahoma Vehicle License and Registration Act, but not including any all-terrain vehicles, utility vehicles, and motorcycles used exclusively for off-road use which are sold by a retail implement dealer, which has been sold, bargained, exchanged, given away or the title thereto transferred from the person who first took title from the manufacturer, importer, or dealer or agent of the manufacturer or importer, or so used as to have become what is commonly known as a "secondhand motor vehicle". In the event of transfer, on the statement of origin, from the original franchised dealer to any other dealer or individual other than a franchised dealer of the same make of vehicle, the vehicle shall be considered a used motor vehicle and must be titled in the new owner's name;

18. "Used motor vehicle auction" means any business other than salvage pools which regularly engages in the sale or trade, or negotiates the sale or trade, of used motor vehicles by auction, whether by open or closed bid or by sale to or purchase by used motor vehicle dealers or individuals;

19. a. "Used motor vehicle dealer" means any person who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents with option to purchase, or offers or attempts to negotiate a sale or exchange of an interest in used motor vehicles, or who is engaged wholly or in part in the business of selling used motor vehicles, whether or not such motor vehicles are owned by the person.

b. "Used motor vehicle dealer" shall not include:

- (1) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting pursuant to the judgment or order of any court,
- (2) public officers while performing their official duties,
- (3) employees of persons enumerated in the definition of "used motor vehicle dealer" when engaged in the specific performance of their duties as such employees,
- (4) mortgagees or secured parties as to sales of motor vehicles constituting collateral on a mortgage or security agreement, if the mortgagees or secured parties shall not realize for their own account from such sales any monies in excess of the outstanding balance secured by such mortgage or security agreement, plus the costs of collection,
- (5) any person acting as an auctioneer who has been engaged by a seller to direct, conduct, control, or be responsible for the sale of used motor vehicles as part of an estate auction or liquidation,

- (6) any person, firm, corporation, or other legal entity who sells, or contracts for the sale of, the vehicles of the person, firm, corporation, or other legal entity when such vehicles are sold in liquidation, and any person, firm, corporation, or other legal entity who serves as an agent in such sale. The exclusion provided in this paragraph shall not extend to any person, firm, corporation, or other legal entity whose business is the purchase, sale, or rental with option to purchase, of motor vehicles, or to a location used for such purposes,
- (7) any person acting as an auctioneer who has been engaged by a seller to direct, conduct, control, or be responsible for the sale of used motor vehicles as part of an auction held at a licensed used motor vehicle dealer location. The exclusion provided in this division shall not extend to a person who auctions five or more used motor vehicles in a nonliquidation sale held at a licensed used motor vehicle dealer location which is not regularly used as a vehicle auction, or
- (8) any retail implement dealer that sells all-terrain vehicles, utility vehicles, and motorcycles used exclusively for off-road use;

20. "Used motor vehicle salesperson" means a person employed by a licensed used motor vehicle dealer to sell, broker, exchange, or negotiate a purchase, sale, or rental with option to purchase, used motor vehicles or an interest in used motor vehicles. The term "used motor vehicle salesperson" shall not include any person who:

- a. uses the person's own funds for such transactions, or
- b. operates independently as a used motor vehicle dealer using a licensed used motor vehicle dealer's license number, ~~or~~
- c. ~~is licensed by the Oklahoma Motor Vehicle Commission to sell new or unused motor vehicles~~

~~who also sells used motor vehicles for the dealer at the motor vehicle dealer's licensed franchise location; provided, such a person shall only be authorized to sell used motor vehicles for the dealer at the motor vehicle dealer's licensed franchise location and to represent the motor vehicle dealer at used motor vehicle auctions without obtaining a separate used motor vehicle salesperson's license; and~~

21. "Wholesale used motor vehicle dealer" means any person who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents with option to purchase, or offers or attempts to negotiate a sale or exchange of interest in used motor vehicles exclusively to used motor vehicle dealers, or who is engaged in the business of selling used motor vehicles exclusively to used motor vehicle dealers, whether or not such motor vehicles are owned by the person.

SECTION 4. AMENDATORY 47 O.S. 2011, Section 582, as amended by Section 179, Chapter 304, O.S.L. 2012 (47 O.S. Supp. 2018, Section 582), is amended to read as follows:

Section 582. A. There is hereby created the Oklahoma Used Motor Vehicle and Parts Commission, to be composed of ten (10) members who shall be selected as follows:

1. One member shall be appointed from each congressional district and any remaining members, including the chair, shall be appointed from the state at large. However, when congressional districts are redrawn, each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member; provided, the chair shall be appointed at large without regard to congressional district representation on the board;

2. All members shall be appointed by the Governor, by and with the advice and consent of the Senate;



3. a. each of the members appointed from a congressional district shall, at the time of appointment, be a resident in good faith of the congressional district from which appointed, and

b. each of the members appointed from the state at large shall, at the time of appointment and during the period of service, be residents in good faith of the state;

4. Each member shall be of good moral character and, for the ten-year period immediately preceding appointment, each of the used motor vehicle dealer representatives shall have been licensed for and actually engaged in the distribution or sale of used motor vehicles; each of the dismantler representatives shall have actually been licensed for and engaged in the principal business of dismantling or disassembling motor vehicles for the purpose of selling the parts thereof; and the manufactured housing representative shall have been licensed for and actually engaged in the principal business of selling manufactured homes; and

5. Eight members plus the chair shall be engaged in the used motor vehicle industry or the automotive dismantler industry. There shall not be fewer than five members engaged in the principal business of the sale of used motor vehicles and there shall not be fewer than two members engaged in the principal business of dismantling or disassembling motor vehicles for the purpose of selling the parts thereof. One of the at-large members shall be engaged in the principal business of selling manufactured homes as a licensed manufactured home dealer. Being engaged in one or more of such pursuits shall not disqualify a person otherwise qualified from serving on the Commission.

B. 1. The term of the chair shall be coterminous with that of the Governor making the appointment, and until a successor is appointed and is qualified.

2. The terms of office of each member of the Commission shall be subject to the following:

a. the Commission shall determine and certify the trade associations of manufactured home dealers that represent ten percent (10%) or more of the number of licensed manufactured home dealers in the state and shall certify each such association to the Governor.

The Governor shall request a minimum of ten names from each such association and shall select one member from the manufactured home industry from the names provided,

- b. each member actively serving July 1, 2000, who was appointed on or before June 30, 2000, shall remain and fulfill the term of his or her membership as set forth at the appointment,
- c. except for the chair, the term of office of each member of the Commission shall be for six (6) years,
- d. except for the chair and the at-large members, the term of office of any member will automatically expire if the member moves out of the congressional district from which appointed; however, if the congressional districts are modified each member shall complete the current term of office as provided in this section,
- e. in event of death, resignation, or removal of any person serving on the Commission, the vacancy shall be filled by appointment as aforesaid for the unexpired portion of the term,
- f. except for the chair, when the term of a member automatically expires, the vacancy shall be filled by appointment of a qualified successor for a term of six (6) years as aforesaid, except that the member shall serve until a successor is appointed and qualified.

3. The chair and each member of the Commission shall take and subscribe to the oath of office required of public officers.

C. The chair and members of the Commission shall receive Thirty Dollars (\$30.00) for each and every day actually and necessarily spent in attending the meetings of the Commission, and shall be reimbursed for subsistence and traveling expenses incurred in the performance of their duties hereunder as provided by the State Travel Reimbursement Act; provided that such meeting payments shall not exceed the sum of Six Hundred Dollars (\$600.00) per annum to any one person.

D. 1. a. The Commission shall appoint a qualified person to serve as Executive Director who shall have had

sufficient management and organizational experience in the automotive industry to direct the functions of the Commission.

- b. The Executive Director shall be appointed for a term of six (6) years, and shall not be subject to dismissal or removal without cause.
- c. The Commission shall fix the salary and define and prescribe the duties of the Executive Director.
- d. The Executive Director shall be in charge of the Commission's office, shall devote such time as necessary to fulfill the duties thereof, and, before entering upon these duties, shall take and subscribe to the oath of office.

2. The Commission may employ such clerical, technical, legal and other help and incur such expenses as may be necessary for the proper discharge of its duties under Section 581 et seq. of this title.

3. The Commission shall maintain its office and transact its business in Oklahoma City, and is authorized to adopt and use a seal.

- E. 1. a. The Commission is hereby vested with the powers and duties necessary and proper to enable it to fully and effectively carry out the provisions and objectives of Section 581 et seq. of this title, and is hereby authorized and empowered, pursuant to the Administrative Procedures Act, to make and enforce all reasonable rules and to adopt and prescribe all forms necessary to accomplish said purpose.
- b. The Commission shall promulgate rules for the licensing of manufactured home installers and the installation, which is the blocking, anchoring and leveling of mobile and manufactured homes that meet the standards of the manufacturer's manual or the Commission.
- c. The Commission shall promulgate rules to prescribe the contents of manufactured home sales agreements and to require that each manufactured home manufacturer issue

with each new manufactured home a warranty comparable to warranties generally in use in the industry warranting the manufactured home to be free from material defects.

- d. The enumeration of any power or authority herein shall not be construed to deny, impair, disparage or limit any others necessary to the attainment thereof.
- e. A copy of all rules adopted by the Commission shall be filed and recorded in the office of the Secretary of State and the State Librarian and Archivist, and same may be amended, modified or repealed from time to time.

2. The Commission's powers and duties shall include, but not be limited to, the following:

- a. to license used motor vehicle dealers, ~~used motor vehicle salespersons,~~ wholesale used motor vehicle dealers, dismantlers, manufactured home dealers, manufactured home manufacturers, and manufactured home installers,
- b. to inspect used motor vehicle dealer, dismantler and manufactured home dealer locations, and manufactured home manufacturers' factories or assembly sites to ensure that they are in an approved location, meet local zoning or other municipal requirements, and have sufficient facilities which shall include, but not be limited to, for retail businesses, a business sign, a listed and usable telephone number, a restroom, and a sales office,
- c. to inspect wholesale used motor vehicle dealer locations to ensure that they are in an approved location, meet local zoning or other municipal requirements, and have sufficient facilities which shall include, but not be limited to, a listed and usable telephone number in the dealer's name and a business office where records of the business are kept,
- d. to require all dealer sales to have a condition of sale such as a warranty disclaimer, implied or written

warranty or a service contract approved by the Commission,

- e. to work with consumers and dealers to hear complaints on used vehicles and manufactured homes, including installation, and
- f. to serve as a dispute resolution panel for binding arbitration in accordance with Section ~~801~~ 1851 et seq. of Title ~~15~~ 12 of the Oklahoma Statutes in contract controversies between licensed used motor vehicle dealers, dismantlers and manufactured housing dealers, manufactured home dealers, installers, and manufacturers and their consumers when, by mutual written agreement executed after the dispute between the parties has arisen, both parties have agreed to use the Commission as their arbitration panel for contract disputes.

F. 1. All fees and charges collected under the provisions of Section 581 et seq. of this title shall be deposited by the Executive Director in the State Treasury in accordance with the depository laws of this state in a special fund to be known as the "Oklahoma Used Motor Vehicle and Parts Commission Fund", which fund is hereby created. Except as hereinafter provided, the monies in the fund shall be used by the Commission for the purpose of carrying out and enforcing the provisions of Section 581 et seq. of this title. Expenditures from the fund shall be warrants issued by the State Treasurer against claims submitted by the Commission to the Director of the Office of Management and Enterprise Services for approval.

2. At the close of each fiscal year, the Commission shall file with the Governor and the State Auditor and Inspector a true and correct report of all fees and charges collected and received by it during the preceding fiscal year and shall at the same time pay into the General Revenue Fund of the state a sum equal to ten percent (10%) of the gross fees and charges so collected and received.

3. All expenses incurred by the Commission in carrying out the provisions of Section 581 et seq. of this title including, but not limited to, per diem, wages, salaries, rent, postage, advertising, supplies, bond premiums, travel and subsistence for the Commissioners, the Executive Director, employees, and legal counsel, and printing and utilities, shall be a proper charge against the

fund, exclusive of the portion thereof to be paid into the General Revenue Fund as above set out; provided, that in no event shall liability ever accrue hereunder against the state in any sum whatsoever, or against the Oklahoma Used Motor Vehicle and Parts Commission Fund, in excess of the ninety percent (90%) of the fees and charges deposited therein.

SECTION 5. AMENDATORY 47 O.S. 2011, Section 583, as last amended by Section 1, Chapter 386, O.S.L. 2015 (47 O.S. Supp. 2018, Section 583), is amended to read as follows:

Section 583. A. 1. It shall be unlawful and constitute a misdemeanor for any person to engage in business as, or serve in the capacity of, or act as a used motor vehicle dealer, ~~used motor vehicle salesperson,~~ wholesale used motor vehicle dealer, manufactured home dealer, restricted manufactured home park dealer, ~~manufactured home salesperson,~~ manufactured home installer, or manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state without first obtaining a license or following other requirements therefor as provided in this section.

2. a. Any person engaging, acting, or serving in the capacity of a used motor vehicle dealer ~~and/or a used motor vehicle salesperson,~~ a manufactured home dealer, restricted manufactured home park dealer, ~~manufactured home salesperson,~~ a manufactured home installer, or a manufactured home manufacturer, or having more than one place where any such business, or combination of businesses, is carried on or conducted shall be required to obtain and hold a current license for each such business, in which engaged.
- b. ~~A used motor vehicle dealer's license shall authorize one person to sell without a salesperson's license in the event such person shall be the owner of a proprietorship, or the person designated as principal in the dealer's franchise or the managing officer or one partner if no principal person is named in the franchise.~~
- ~~e.~~ If after a hearing in accordance with the provisions of Section 585 of this title, the Oklahoma Used Motor Vehicle and Parts Commission shall find any person installing a mobile or manufactured home to be in

violation of any of the provisions of this act, such person may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day a person is in violation of this act may constitute a separate violation. All administrative fines collected pursuant to the provisions of this subparagraph shall be deposited in the fund established in Section 582 of this title. Administrative fines imposed pursuant to this subparagraph may be enforceable in the district courts of this state.

- d. ~~A salesperson's license may not be issued under a wholesale used motor vehicle dealer's license.~~

3. Any person except persons penalized by administrative fine violating the provisions of this section shall, upon conviction, be ~~fined~~ punished by a fine not to exceed Five Hundred Dollars (\$500.00). A second or subsequent conviction shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00); provided that each day such unlicensed person violates this section shall constitute a separate offense, and any vehicle involved in a violation of this subsection shall be considered a separate offense.

B. 1. Applications for licenses required to be obtained under the provisions of the Oklahoma Used Motor Vehicle and Parts Commission shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to the applicants, and shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The Commission shall require in the application, or otherwise, information relating to:

- a. the applicant's financial standing,
- b. the applicant's business integrity,
- c. whether the applicant has an established place of business and is engaged in the pursuit, avocation, or business for which a license, or licenses, is applied for,

- d. whether the applicant is able to properly conduct the business for which a license, or licenses, is applied for, and
- e. such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

2. All applications for license or licenses shall be accompanied by the appropriate fee or fees in accordance with the schedule hereinafter provided. In the event any application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant.

3. All bonds and licenses issued under the provisions of this act shall expire on December 31, following the date of issue and shall be nontransferable. All applications for renewal of licenses shall be submitted by November 1 of each year of expiration, and licenses for completed renewals received by November 1 shall be issued by January 10. If applications have not been made for renewal of licenses, such licenses shall expire on December 31 and it shall be illegal for any person to represent himself or herself and act as a dealer thereafter. Tag agents shall be notified not to accept dealers' titles until such time as licenses have been issued. Beginning January 1, 2016, all licenses shall be issued for a period of two (2) years and the appropriate fees shall be assessed. The Commission shall adopt rules necessary to implement the two-year licensing provisions.

~~4. A used motor vehicle salesperson's license shall permit the licensee to engage in the activities of a used motor vehicle salesperson. Salespersons shall not be allowed to sell vehicles unless applications and fees are on file with the Commission and the motor vehicle salesperson's or temporary salesperson's license issued. A temporary salesperson's license, salesperson's renewal or reissue of salesperson's license shall be deemed to have been issued when the appropriate application and fee have been properly addressed and mailed to the Commission.~~

~~Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are licensed.~~

C. The schedule of license fees to be charged and received by the Commission for the licenses issued hereunder shall be as follows:



1. For each used motor vehicle dealer's license and each wholesale used motor vehicle dealer's license, Six Hundred Dollars (\$600.00). If a used motor vehicle dealer or a wholesale used motor vehicle dealer has once been licensed by the Commission in the classification for which he or she applies for a renewal of the license, the fee for each subsequent renewal shall be Three Hundred Dollars (\$300.00); provided, if an applicant holds a license to conduct business as an automotive dismantler and parts recycler issued pursuant to Section 591.1 et seq. of this title, the initial fee shall be Two Hundred Dollars (\$200.00) and the renewal fee shall be Two Hundred Dollars (\$200.00). If an applicant is applying simultaneously for a license under this paragraph and a license under paragraph 1 of Section 591.5 of this title, the initial application fee shall be Four Hundred Dollars (\$400.00). For the reinstatement of a used motor vehicle dealer's license after revocation for cancellation or expiration of insurance pursuant to subsection F of this section, the fee shall be Two Hundred Dollars (\$200.00);

2. For a used motor vehicle dealer's license, for each place of business in addition to the principal place of business, Two Hundred Dollars (\$200.00);

~~3. For each used motor vehicle salesperson's license and renewal, Fifty Dollars (\$50.00), and for a transfer, Fifty Dollars (\$50.00);~~

~~4.~~ For each holder who possesses a valid new motor vehicle dealer's license from the Oklahoma Motor Vehicle Commission, Two Hundred Dollars (\$200.00) shall be the initial fee for a used motor vehicle license and the fee for each subsequent renewal shall be Two Hundred Dollars (\$200.00);

~~5.~~

4. a. For each manufactured home dealer's license or a restricted manufactured home park dealer's license, Six Hundred Dollars (\$600.00), and for each place of business in addition to the principal place of business, Four Hundred Dollars (\$400.00), and

b. For each renewal of a manufactured home dealer's license or a restricted manufactured home park dealer's license, and renewal for each place of

business in addition to the principal place of business, Three Hundred Dollars (\$300.00);

~~6.~~

5. a. For each manufactured home installer's license, Four Hundred Dollars (\$400.00), and
- b. For each renewal of a manufactured home installer's license, Four Hundred Dollars (\$400.00); and

~~7.~~

6. a. For each manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state, One Thousand Five Hundred Dollars (\$1,500.00), and
- b. For each renewal of a manufactured home manufacturer's license, One Thousand Five Hundred Dollars (\$1,500.00); ~~and~~

~~8. For each manufactured home salesperson's license or renewal thereof, Fifty Dollars (\$50.00), and for each transfer, Fifty Dollars (\$50.00).~~

D. 1. The license issued to each used motor vehicle dealer, each wholesale used motor vehicle dealer, each restricted manufactured home park dealer and each manufactured home dealer shall specify the location of the place of business. If the business location is changed, the Oklahoma Used Motor Vehicle and Parts Commission shall be notified immediately of the change and the Commission may endorse the change of location on the license. The fee for a change of location shall be One Hundred Dollars (\$100.00), and the fee for a change of name, Twenty-five Dollars (\$25.00). The license of each licensee shall be posted in a conspicuous place in the place or places of business of the licensee.

2. The license issued to each manufactured home installer, and each manufactured home manufacturer shall specify the location of the place of business. If the business location is changed, the Oklahoma Used Motor Vehicle and Parts Commission shall be notified immediately of the change and the Commission may endorse the change of location on the license without charge. The license of each

licensee shall be posted in a conspicuous place in the place or places of business of the licensee.

~~3. Every used motor vehicle salesperson shall have the license upon his or her person when engaged in business, and shall display same upon request. The name of the employer of the salesperson shall be stated on the license and if there is a change of employer, the license holder shall immediately mail the license to the Commission for its endorsement of the change thereon. There shall be no penalty for not having a license upon his or her person.~~

4. Every manufactured home installer shall have the license available for inspection at the primary place of business of the licensee. This license shall be valid for the licensee and all of the employees of the licensee. Any person who is not an employee of the licensee must obtain a separate manufactured home installer license regardless of whether such person is acting in the capacity of a contractor or subcontractor.

E. 1. a. Each applicant for a used motor vehicle dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Twenty-five Thousand Dollars (\$25,000.00). Each new applicant for a used motor vehicle dealer's license for the purpose of conducting a used motor vehicle auction shall procure and file with the Commission a good and sufficient bond in the amount of Fifty Thousand Dollars (\$50,000.00). An applicant who intends to conduct a used motor vehicle auction who provides proof that the applicant has check and title insurance in an amount not less than Fifty Thousand Dollars (\$50,000.00) shall only be required to have a bond in the amount of Twenty-five Thousand Dollars (\$25,000.00).

b. Each new applicant for a used motor vehicle dealer license for the purpose of conducting a used motor vehicle business which will consist primarily of non-auction consignment sales which are projected to equal Five Hundred Thousand Dollars (\$500,000.00) or more in gross annual sales shall procure and file with the Commission a good and sufficient bond in the amount of Fifty Thousand Dollars (\$50,000.00). The Commission shall prescribe by rule the method of operation of the non-auction consignment dealer in order to properly

protect the interests of all parties to the transaction and to provide sanctions against dealers who fail to comply with the rules.

- c. Each applicant for a wholesale used motor vehicle dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Twenty-five Thousand Dollars (\$25,000.00).
- d. Any used motor vehicle dealer who, for the purpose of being a rebuilder, applies for a rebuilder certificate, as provided in Section 591.5 of this title, whether as a new application or renewal, shall procure and file with the Commission a good and sufficient bond in the amount of Fifteen Thousand Dollars (\$15,000.00), in addition to any other bonds required.
- e. Each applicant for a manufactured home dealer's license or a restricted manufactured home park dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000.00).
- f. Each manufactured home manufacturing facility selling directly to a licensed manufactured home dealer in this state shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000.00). In addition to all other conditions and requirements set forth herein, the bond shall require the availability of prompt and full warranty service by the manufacturer to comply with all warranties expressed or implied in connection with each manufactured home which is manufactured for resale in this state. A manufacturer may not sell, exchange, or lease-purchase a manufactured home to a person in this state who is not a licensed manufactured home dealer.
- g. The bond shall be approved as to form by the Attorney General and conditioned that the applicant shall not practice fraud, make any fraudulent representation, or violate any of the provisions of this act in the conduct of the business for which the applicant is licensed. One of the purposes of the bond is to

provide reimbursement for any loss or damage suffered by any person by reason of issuance of a certificate of title by a used motor vehicle dealer, a wholesale used motor vehicle dealer, a restricted manufactured home park dealer or a manufactured home dealer.

2. The bonds as required by this section shall be maintained throughout the period of licensure. Should the bond be canceled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

F. Any used motor vehicle dealer or wholesale used motor vehicle dealer is required to furnish and keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00) of single liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state.

G. Any manufactured home dealer or restricted manufactured home park dealer is required to furnish and keep in force a minimum of One Hundred Thousand Dollars (\$100,000.00) of garage liability or general liability with products and completed operations insurance coverage.

H. Any manufactured home installer is required to furnish and keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00) of general liability with products and completed operations insurance coverage.

SECTION 6. AMENDATORY 47 O.S. 2011, Section 584, as amended by Section 3, Chapter 145, O.S.L. 2013 (47 O.S. Supp. 2018, Section 584), is amended to read as follows:

Section 584. A. The Oklahoma Used Motor Vehicle and Parts Commission may deny an application for a license, impose a fine not to exceed One Thousand Dollars (\$1,000.00) per occurrence and/or revoke or suspend a license after it has been granted, when any provision of Sections 581 through 588 of this title is violated or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant or the licensee, as the case may be, under the standards established by Sections 581 through 588 of this title;

2. For fraud practices or any material misstatement made by an applicant in any application for license under the provisions of Sections 581 through 588 of this title;

3. For any willful failure to comply with any provision of Section 581 et seq. of this title or with any rule promulgated by the Commission under authority vested in it by Sections 581 through 588 of this title;

4. Change of condition after license is granted resulting in failure to maintain the qualifications for license;

5. Continued or flagrant violation of any of the rules of the Commission;

6. Being a used motor vehicle dealer, ~~used motor vehicle salesperson~~, a wholesale used motor vehicle dealer, or a manufactured home dealer, a restricted manufactured home park dealer, a manufactured home installer, ~~or a manufactured home manufacturer, or manufactured home salesperson~~ who:

- a. resorts to or uses any false or misleading advertising in connection with business as a used motor vehicle dealer ~~or salesperson~~, wholesale used motor vehicle dealer or a restricted manufactured home park dealer or manufactured home dealer, installer or manufacturer,
- b. has committed any unlawful act which resulted in the revocation of any similar license in another state,
- c. has been convicted of a crime involving moral turpitude,
- d. has committed a fraudulent act in selling, purchasing or otherwise dealing in motor vehicles or manufactured homes or has misrepresented the terms and conditions of a sale, purchase or contract for sale or purchase of a motor vehicle or manufactured home or any interest therein including an option to purchase such motor vehicles or manufactured homes,
- e. has engaged in business under a past or present license issued pursuant to Sections 581 through 588 of

this title, in such a manner as to cause injury to the public or to those with whom the licensee is dealing,

- f. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license,
- g. has failed or refused to furnish and keep in force any bond required under Sections 581 through 588 of this title,
- h. has installed or attempted to install a manufactured home in an unworkmanlike manner, or
- i. employs ~~unlicensed salesperson or other~~ unlicensed persons in connection with the sale of manufactured homes;

7. Being a used motor vehicle dealer who:

- a. does not have an established place of business,
- b. employs ~~unlicensed salespersons or other~~ unlicensed persons in connection with the sale of used vehicles,
- c. fails or refuses to furnish or keep in force single limit liability insurance on any vehicle offered for sale and otherwise required under the financial responsibility laws of this state, or
- d. is not operating from the address shown on the license if this change has not been reported to the Commission; or

8. Being a manufactured home dealer or a restricted manufactured home park dealer who:

- a. does not have an established place of business,
- b. fails or refuses to furnish or keep in force garage liability and completed operations insurance, or
- c. is not operating from the address shown on the license if this change has not been reported to the Commission.

B. 1. The Commission shall deny an application for a license, or revoke or suspend a license after it has been granted, if a manufactured home dealer does not meet the following guidelines and restrictions:

- a. a display area for manufactured homes which is easily accessible, with sufficient parking for the public,
- b. an office for conducting business where the books, records, and files are kept, with access to a restroom for the public,
- c. a place of business which meets all zoning occupancy and other requirements of the appropriate local government and regular occupancy by a person, firm, or corporation engaged in the business of selling manufactured homes, and
- d. a place of business which is separate and apart from any other dealer's location.

2. The Commission shall deny an application for a restricted manufactured home park dealer license, or revoke or suspend a license after it has been granted, if a manufactured home park dealer does not satisfy the following guidelines and restrictions:

- a. only mobile or manufactured homes that are "ready for occupancy" are sold or offered for sale,
- b. maintains an office for conducting business where the books, records, and files are kept, with access to a restroom for the public,
- c. maintains a place of business which meets all zoning, occupancy and other requirements of the appropriate local government and regular occupancy by a person, firm or corporation engaged in the business of selling manufactured homes inside a park, and
- d. maintains a place of business which is separate and apart from any other dealer's location.



C. The Commission shall deny an application for a license, or revoke or suspend a license after it has been granted, if a manufactured home installer:

1. Installs or attempts to install a manufactured home in a manner that is not in compliance with installation standards as set by the Commission pursuant to rule; or

2. Violates or fails to comply with any applicable rule as promulgated by the Commission concerning manufactured home installers.

D. The Commission shall deny an application for a license, or revoke or suspend a license after it has been granted, if a manufactured home manufacturer violates or fails to comply with any applicable rule as promulgated by the Commission concerning manufactured home manufacturers.

E. The Commission shall deny an application for a license by a motor vehicle manufacturer or factory if the application is for the purpose of selling used motor vehicles to any retail consumer in the state, other than through its retail franchised dealers, or acting as a broker between a seller and a retail buyer. This subsection does not prohibit a manufacturer from selling used motor vehicles where the retail customer is a nonprofit organization or a federal, state, or local government or agency. This subsection does not prohibit a manufacturer from providing information to a consumer for the purpose of marketing or facilitating the sale of used motor vehicles or from establishing a program to sell or offer to sell used motor vehicles through the manufacturer's retail franchised dealers as provided for in Sections 561 through 580.2 of this title. This subsection shall not prevent a factory from obtaining a wholesale used motor vehicle dealer's license or the factory's financing subsidiary from obtaining a wholesale used motor vehicle dealer's license.

F. If the Commission denies issuance of a license the Commission shall provide the grounds for the action to the applicant in writing and allow the applicant sixty (60) days to resolve any issues that are the grounds for the action.

G. Each of the aforementioned grounds for suspension, revocation, or denial of issuance or renewal of license shall also constitute a violation of Sections 581 through 588 of this title,

unless the person involved has been tried and acquitted of the offense constituting such grounds.

The suspension, revocation or refusal to issue or renew a license or the imposition of any other penalty by the Commission shall be in addition to any penalty which might be imposed upon any licensee upon a conviction at law for any violation of Sections 581 through 588 of this title.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 564.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

It shall be punishable by an administrative fine not to exceed Five Hundred Dollars (\$500.00) for any person, firm, association, corporation or trust to engage in business as, or serve in the capacity of, a new motor vehicle salesperson in this state without first obtaining a certificate of registration with the Oklahoma Motor Vehicle Commission. The cost of registration for each new salesperson shall be set at Twenty-five Dollars (\$25.00) to be renewed annually. The cost of registration is to be borne by the employing entity of the new salesperson. The Commission shall promulgate rules and procedures necessary for the implementation and creation of the registry and the issuance of certificates of registration.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 583.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. It shall be punishable by an administrative fine not to exceed Five Hundred Dollars (\$500.00) for any person, firm, association, corporation or trust to engage in business as, or serve in the capacity of, a used motor vehicle salesperson in this state without first obtaining a certificate of registration with the Oklahoma Used Motor Vehicle and Parts Commission. The cost of registration for each new salesperson shall be set at Twenty-five Dollars (\$25.00) to be renewed annually. The cost of registration is to be borne by the employing entity of the new salesperson. The Commission shall promulgate rules and procedures necessary for the implementation and creation of the registry and the issuance of certificates of registration.

B. It shall be punishable by an administrative fine not to exceed Five Hundred Dollars (\$500.00) for any person, firm,

association, corporation or trust to engage in business as, or serve in the capacity of, a manufactured home salesperson in this state without first obtaining a certificate of registration with the Oklahoma Used Motor Vehicle and Parts Commission. The cost of registration for each new salesperson shall be set at Twenty-five Dollars (\$25.00) to be renewed annually. The cost of registration is to be borne by the employing entity of the new salesperson. The Commission shall promulgate rules and procedures necessary for the implementation and creation of the registry and the issuance of certificates of registration.

SECTION 9. This act shall become effective November 1, 2019.

Passed the House of Representatives the 13th day of March, 2019.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 11th day of April, 2019.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_