

An Act

ENROLLED HOUSE
BILL NO. 3002

By: Munson, Lepak, and Ranson
of the House

and

Taylor of the Senate

An Act relating to professions and occupations; amending 2 O.S. 2021, Section 11-98, which relates to the Oklahoma Scrap Metal Dealers Act; modifying application for license; defining terms; amending 37A O.S. 2021, Section 2-146, which relates to the Oklahoma Alcoholic Beverage Control Act; modifying disqualifying factors for licensure; amending 47 O.S. 2021, Section 565, which relates to motor vehicle dealers; modifying application for license; defining terms; amending 47 O.S. 2021, Section 584, which relates to used motor vehicle dealers; modifying basis for denial, revocation or suspension of license; defining terms; amending 63 O.S. 2021, Section 1-1454, which relates to the Oklahoma Medical Micropigmentation Regulation Act; modifying qualifications for certification; defining terms; and providing an effective date.

SUBJECT: Professions and occupations

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

SECTION 1. AMENDATORY 2 O.S. 2021, Section 11-98, is amended to read as follows:

Section 11-98. A. An applicant for a license to engage in business as a scrap metal dealer shall provide all of the following information on the license application:

1. If the applicant is an individual, the full name and place of residence of the applicant;

2. If the applicant is a firm, corporation or other legal entity, the full name, place of residence, and the position of the individual filing the application on behalf of the entity;

3. The business address of the location where the scrap metal dealer conducts business or will conduct business as a scrap metal dealer;

4. Legal proof of ownership, lease agreement or contract for the business location;

5. Proof of a dedicated telephone line for the business location;

6. Proof of a general liability insurance policy for the business location;

7. Proof of a current discharge permit issued pursuant to the provisions of the Oklahoma Pollutant Discharge Elimination System Act; and

8. Whether the person has been previously convicted of, or pled guilty or nolo contendere to, any felony or to a misdemeanor involving moral turpitude or dishonesty; and

~~9. Any other additional information that will sufficiently enable the Oklahoma Department of Agriculture, Food, and Forestry to determine if the scrap metal dealer is prohibited from being issued a license~~ crime that substantially relates to scrap metal dealing and poses a reasonable threat to public safety.

B. The Department may conduct any reasonable inquiry or investigation relative to the determination of the fitness of the applicant to be licensed or continue to be licensed including, but not limited to, requiring a national criminal history record check as provided in Section 150.9 of Title 74 of the Oklahoma Statutes.

C. The Department shall charge an application fee in the amount of One Hundred Dollars (\$100.00) for processing an initial application for a scrap metal dealer license. The Department shall also charge an investigative fee of One Hundred Dollars (\$100.00) to

be used for the purpose of conducting an investigation of the applicant. All fees shall be nonrefundable.

D. In addition to the application, each applicant shall submit a full set of fingerprints and a photograph with each application for an original license. The fingerprints shall be used for a national criminal history record check as provided for in subsection B of this section. The applicant shall be required to pay for fingerprints, photographs and the national criminal history records check required for licensure and renewals.

E. If the results of the investigation of the applicant show no prohibition to granting a license, the Department shall issue the scrap metal dealer license. The scrap metal dealer license shall be valid for a period of one (1) year unless otherwise voluntarily surrendered, suspended or revoked by the Department.

F. A scrap metal dealer license issued pursuant to the provisions of this act is valid for the conduct of business as a scrap metal dealer only at the location specified in the application. A separate scrap metal dealer license shall be required for each location specified in the application form and each license shall designate the location to which it applies. The business of the scrap metal dealer shall not be conducted in any place other than that designated by the license. The scrap metal dealer license shall not be transferable.

G. The Department shall deny the license when the applicant fails to properly complete the application form or if it is determined that the applicant is not eligible to receive a scrap metal dealer license.

H. A scrap metal dealer license may be renewed any time within sixty (60) days prior to the expiration date of the license. To renew a scrap metal dealer license, the licensee must first obtain a renewal form from the Department. The licensee must complete the renewal form and submit a renewal fee in the amount of One Hundred Dollars (\$100.00) to the Department. Upon receipt of the renewal application and fee, the Department shall conduct a national criminal history record check and investigate any other records or information deemed by the Department to be relevant to the renewal of the scrap metal dealer license. If the licensee appears not to have any prohibition to renewing the scrap metal dealer license, the Department shall issue the renewed license for a period of one (1) year.

I. The Oklahoma Department of Agriculture, Food, and Forestry shall promulgate rules, procedures and forms governing the application and renewal procedures for scrap metal dealer licenses.

J. As used in this section:

1. "Substantially relates" means the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation; and

2. "Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.

SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-146, is amended to read as follows:

Section 2-146. A. The ABLE Commission shall refuse to issue a wine and spirits wholesaler, beer distributor, retail spirits, retail wine or retail beer license, either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

1. Except in the case of a beer distributor, that the applicant is not a citizen of the United States or is not a qualified elector in this state, or has not been a continuous resident of this state for the five (5) years next preceding the application for the license;

2. That the applicant is under twenty-one (21) years of age;

3. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a felony;

4. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a violation of any state or federal law relating to alcoholic beverages, has forfeited a bond while any charge of such violation was pending, nor may any license be granted for any purpose under the Oklahoma Alcoholic Beverage Control Act to an Oklahoma resident, who has held or whose spouse has held a Federal Liquor Stamp in Oklahoma before the adoption of Article XXVIII-A of the Oklahoma Constitution unless the

Liquor Stamp was granted for supplying alcoholic beverages to a federal military installation, or was granted under the Oklahoma Alcoholic Beverage Control Act;

5. That the applicant or any partner has, within twelve (12) months next preceding the date of the application, violated any provision of the Oklahoma Alcoholic Beverage Control Act or rule of the ABLE Commission promulgated pursuant hereto. Provided, however, that if the ABLE Commission has, during such twelve-month period, suspended any license sought to be renewed, such renewal application may be approved if the term of the suspension has been completed and the applicant has complied with any special conditions imposed in connection with the suspension;

~~6. That the applicant is not of good moral character, or that the applicant is in the habit of using alcoholic beverages to excess, or is mentally incapacitated. Provided, that the record in any municipal court showing a conviction of violation of any municipal ordinances or state statutes involving moral character or public nuisance obtained after passage and approval of the Oklahoma Alcoholic Beverage Control Act shall be received in evidence by the ABLE Commission;~~

7. That the applicant does not own or have a written lease for the premises for which a license is sought;

8. That the applicant, within twelve (12) months next preceding the date of application, has been the holder of a license revoked for cause;

9. That the applicant is not the real party in interest, or intends to carry on the business authorized by the license as the agent of another;

10. That the applicant, in the case of an application for renewal of any license, would not be eligible for such license on a first application;

11. That the applicant is a person who appoints or is a law enforcement official or is an employee of the ABLE Commission;

12. That the proposed location of the licensed premises would violate a valid municipal nondiscriminatory zoning ordinance;

13. That, in the case of an application for a wine and spirits wholesaler license or beer distributor license, any brewer or manufacturer, including an officer, director or principal stockholder thereof or any partner, has any financial interest in the business to be conducted under the license, unless otherwise permitted by law;

14. That the issuance of the license applied for would result in a violation of any provision of the Oklahoma Alcoholic Beverage Control Act;

15. That, in the case of an application for a wine and spirits wholesaler or beer distributor license, the applicant or any partner, or spouse of the applicant or any partner, is the holder or partner of the holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than an agent or employee license for employment by the applicant, or a storage license, bonded warehouse license, carrier license or private carrier license; provided, nothing shall prohibit a wine and spirits wholesaler, who is otherwise qualified, from maintaining beer distributor licenses in the state, nor a beer distributor, who is otherwise qualified, from maintaining a wine and spirits wholesaler license in the state;

16. That, in the case of an application for a retail spirits, retail wine or retail beer license, the applicant or any partner is the holder or partner of the holder, or employee of such holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than a storage license or an employee license for the proposed licensed premises of the applicant, provided, nothing in this title shall prohibit an applicant for a retail wine and/or retail beer license from maintaining a separate mixed beverage, caterer, mixed beverage/caterer combination license, and/or an ~~on-premise~~ on-premises beer and wine license; or

17. That the applicant or any partner, spouse, employee or other person affiliated with the applicant is not in compliance with the tax laws of this state as required in Article XXVIII-A of the Oklahoma Constitution.

B. The provisions of this section shall not operate to prohibit the issuance of a beer distributor license to a corporation or partnership or limited liability company.

SECTION 3. AMENDATORY 47 O.S. 2021, 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 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,
- 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 felony crime ~~involving moral turpitude~~ that substantially relates to the occupation of a motor vehicle dealer and poses a reasonable threat to public safety,
- 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 a person without obtaining a certificate of registration for the person, 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:

- a. derived from monthly financial statements provided to the factory, and
- b. 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, 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.

D. As used in this section:

1. "Substantially relates" means the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation; and

2. "Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.

SECTION 4. AMENDATORY 47 O.S. 2021, 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, a 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, a manufactured home salesperson or a manufactured home manufacturer who:

- a. resorts to or uses any false or misleading advertising in connection with business as a used motor vehicle dealer, 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 felony crime involving moral turpitude that substantially relates to the occupation of a used motor vehicle dealer, a wholesale used motor vehicle dealer, a manufactured home dealer, a restricted manufactured home park dealer, a manufactured home installer or a manufactured home manufacturer and poses a reasonable threat to public safety,
- 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 a person in connection with the sale of manufactured homes without first obtaining a certificate of registration for the person;

7. Being a used motor vehicle dealer who:

- a. does not have an established place of business,
- b. employs a person in connection with the sale of used vehicles without first obtaining a certificate of registration for the person,
- 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.

H. As used in this section:

1. "Substantially relates" means the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation; and

2. "Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.

SECTION 5. AMENDATORY 63 O.S. 2021, Section 1-1454, is amended to read as follows:

Section 1-1454. A. On and after May 1, 2002, except for a physician, any person intending to perform medical micropigmentation in this state shall first be certified by the State Department of Health.

B. The State Commissioner of Health shall not issue a certificate or renew a certificate to perform medical micropigmentation to a person who has:

1. Been convicted of or pled guilty or nolo contendere to a felony ~~or a misdemeanor involving moral turpitude in any federal, state, territory, or District of Columbia court~~ crime that substantially relates to the practice of medical micropigmentation and poses a reasonable threat to public safety;

2. Been determined to have engaged in unprofessional conduct as defined by the rules promulgated by the State Board of Health;

3. Made a materially false or fraudulent statement in an application or other document relating to certification pursuant to the provisions of the Oklahoma Medical Micropigmentation Regulation Act; or

4. Had a health-related license, certificate, or permit suspended, revoked or not renewed or had any other disciplinary action taken, or had an application for a health-related license, certificate, or permit refused by a federal, state, territory, or District of Columbia regulatory authority for intentionally falsifying information.

C. In order to qualify for certification, an applicant shall:

1. Have received a high school diploma or its equivalent;

2. Be at least twenty-one (21) years of age; and

3. Have submitted a completed application to the Department in such form as required by the Department which shall include a notarized copy of:

- a. the certificate of birth of the applicant,
- b. the applicant's driver license or other similar form of identification,
- c. other professional credentials, if applicable, and
- d. proof, in such form as the Department determines appropriate, of the satisfactory completion of a program of training and testing approved by the Department as specified in Section ~~6~~ 1-1455 of this ~~act~~ title.

D. Upon meeting the requirements of the Oklahoma Medical Micropigmentation Regulation Act and rules promulgated pursuant thereto, the State Commissioner of Health shall issue a certificate to perform medical micropigmentation to the applicant.

E. As used in this section:

1. "Substantially relates" means the nature of criminal conduct for which the person was convicted has a direct bearing on the fitness or ability to perform one or more of the duties or responsibilities necessarily related to the occupation; and

2. "Poses a reasonable threat" means the nature of criminal conduct for which the person was convicted involved an act or threat of harm against another and has a bearing on the fitness or ability to serve the public or work with others in the occupation.

SECTION 6. This act shall become effective November 1, 2022.

Passed the House of Representatives the 22nd day of March, 2022.

Presiding Officer of the House
of Representatives

Passed the Senate the 27th day of April, 2022.

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: _____