

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 451

By: Brinkley

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5
6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.
8 2011, Section 581, as last amended by Section 1,
9 Chapter 145, O.S.L. 2013 (47 O.S. Supp. 2014, Section
10 581), which relates to used motor vehicles; modifying
11 definitions; amending 47 O.S. 2011, Section 1107,
12 which relates to the sale of motor vehicles;
13 modifying certain exception; adding certain dealer to
14 requirement to provide certificate of title; defining
15 term; and providing an effective date.

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

17 SECTION 1. AMENDATORY 47 O.S. 2011, Section 581, as last
18 amended by Section 1, Chapter 145, O.S.L. 2013 (47 O.S. Supp. 2014,
19 Section 581), is amended to read as follows:

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

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

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

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

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

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

12 6. a. "Manufactured home dealer" means any person who, for a
13 commission or with intent to make a profit or gain of
14 money or other thing of value, sells, offers to sell,
15 or attempts to negotiate a sale or exchange of
16 interest in, new or used manufactured homes, or that
17 is engaged wholly or in part in the business of
18 selling any new and unused, or used, or both new and
19 used manufactured homes. A valid franchise letter as
20 proof of authorization to sell any new manufactured
21 home product line or lines shall be attached to the
22 application for a dealer license to sell manufactured
23 homes. "Manufactured home dealer" shall include a
24 manufactured home auction. A manufactured home

1 auction shall mean any person selling more than
2 twenty-five manufactured homes in an auction or
3 liquidation format. Only licensed manufactured home
4 dealers shall be authorized to purchase manufactured
5 homes at such auctions.

6 b. "Manufactured home dealer" shall not include any
7 person who sells or contracts for the sale of a
8 personally titled manufactured home or homes, or any
9 person acting as an auctioneer who has been engaged by
10 a seller to direct, conduct, control, or be
11 responsible for the sale of manufactured homes as a
12 part of an auction or liquidation of an estate, or any
13 Oklahoma licensed real estate broker or sales
14 associate when buying or selling used mobile homes as
15 a part of a real estate business. No person shall be
16 considered a manufactured home dealer as to any
17 manufactured home purchased or acquired by the person
18 for purposes other than resale; provided, that the
19 restriction set forth in this sentence shall not
20 prevent an otherwise qualified person from utilizing a
21 single manufactured home as a sales office.

22 c. A holder of a lien on a manufactured home may sell,
23 exchange, or transfer by lease-purchase the
24 repossessed manufactured home and shall not be

1 required to be licensed pursuant to this chapter. If
2 the lienholder contracts with a person or company to
3 sell the repossessed manufactured home and the person
4 or company is not an employee, officer or principal of
5 the lienholder, such person or company shall be
6 licensed pursuant to this chapter.

7 d. "Manufactured home dealer" shall not include any
8 person who sells mobile or manufactured homes located
9 in a mobile or manufactured home park or community;

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

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

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

23 10. "Mobile home" means a residential dwelling fabricated in an
24 off-site manufacturing facility, designed to be a permanent

1 residence, but which is still transportable, that was built prior to
2 the enacting of the National Manufactured Housing Construction and
3 Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq.;

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

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

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

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

1 15. "Retail implement dealer" means a business engaged
2 primarily in the sale of farm tractors as defined in Section 1-
3 118 of this title or implements of husbandry as defined in
4 Section 1-125 of this title or a combination thereof;

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

9 ~~16.~~ 17. "Used motor vehicle" means any motor vehicle, as that
10 term is defined in the Oklahoma Vehicle License and Registration
11 Act, but not including any all-terrain vehicles, utility vehicles,
12 and motorcycles used exclusively for off-road use which are sold by
13 a retail implement dealer, which has been sold, bargained,
14 exchanged, given away or the title thereto transferred from the
15 person who first took title from the manufacturer, importer, or
16 dealer or agent of the manufacturer or importer, or so used as to
17 have become what is commonly known as a "secondhand motor vehicle".
18 In the event of transfer, on the statement of origin, from the
19 original franchised dealer to any other dealer or individual other
20 than a franchised dealer of the same make of vehicle, the vehicle
21 shall be considered a used motor vehicle and must be titled in the
22 new owner's name;

23 ~~17.~~ 18. "Used motor vehicle auction" means any business other
24 than salvage pools which regularly engages in the sale or trade, or

1 negotiates the sale or trade, of used motor vehicles by auction,
2 whether by open or closed bid or by sale to or purchase by used
3 motor vehicle dealers or individuals;

4 ~~18.~~

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

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

15 (1) receivers, trustees, administrators, executors,
16 guardians, or other persons appointed by or
17 acting pursuant to the judgment or order of any
18 court,

19 (2) public officers while performing their official
20 duties,

21 (3) employees of persons enumerated in the definition
22 of "used motor vehicle dealer" when engaged in
23 the specific performance of their duties as such
24 employees,

1 (4) mortgagees or secured parties as to sales of
2 motor vehicles constituting collateral on a
3 mortgage or security agreement, if the mortgagees
4 or secured parties shall not realize for their
5 own account from such sales any monies in excess
6 of the outstanding balance secured by such
7 mortgage or security agreement, plus the costs of
8 collection,

9 (5) any person acting as an auctioneer who has been
10 engaged by a seller to direct, conduct, control,
11 or be responsible for the sale of used motor
12 vehicles as part of an estate auction or
13 liquidation,

14 (6) any person, firm, corporation, or other legal
15 entity who sells, or contracts for the sale of,
16 the vehicles of the person, firm, corporation, or
17 other legal entity when such vehicles are sold in
18 liquidation, and any person, firm, corporation,
19 or other legal entity who serves as an agent in
20 such sale. The exclusion provided in this
21 paragraph shall not extend to any person, firm,
22 corporation, or other legal entity whose business
23 is the purchase, sale, or rental with option to
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1 purchase, of motor vehicles, or to a location
2 used for such purposes, ~~or~~

3 (7) any person acting as an auctioneer who has been
4 engaged by a seller to direct, conduct, control,
5 or be responsible for the sale of used motor
6 vehicles as part of an auction held at a licensed
7 used motor vehicle dealer location. The
8 exclusion provided in this division shall not
9 extend to a person who auctions five or more used
10 motor vehicles in a nonliquidation sale held at a
11 licensed used motor vehicle dealer location which
12 is not regularly used as a vehicle auction, or

13 (8) any retail implement dealer that sells all-
14 terrain vehicles, utility vehicles, and
15 motorcycles used exclusively for off-road
16 use;

17 ~~19.~~ 20. "Used motor vehicle salesperson" means a person
18 employed by a licensed used motor vehicle dealer to sell, broker,
19 exchange, or negotiate a purchase, sale, or rental with option to
20 purchase, used motor vehicles or an interest in used motor vehicles.
21 The term "used motor vehicle salesperson" shall not include any
22 person who:

23 a. uses the person's own funds for such transactions,
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- 1 b. operates independently as a used motor vehicle dealer
2 using a licensed used motor vehicle dealer's license
3 number, or
- 4 c. is licensed by the Oklahoma Motor Vehicle Commission
5 to sell new or unused motor vehicles who also sells
6 used motor vehicles for the dealer at the motor
7 vehicle dealer's licensed franchise location;
8 provided, such a person shall only be authorized to
9 sell used motor vehicles for the dealer at the motor
10 vehicle dealer's licensed franchise location and to
11 represent the motor vehicle dealer at used motor
12 vehicle auctions without obtaining a separate used
13 motor vehicle salesperson's license; and

14 ~~20.~~ 21. "Wholesale used motor vehicle dealer" means any person
15 who, for a commission or with intent to make a profit or gain of
16 money or other thing of value, sells, brokers, exchanges, rents with
17 option to purchase, or offers or attempts to negotiate a sale or
18 exchange of interest in used motor vehicles exclusively to used
19 motor vehicle dealers, or who is engaged in the business of selling
20 used motor vehicles exclusively to used motor vehicle dealers,
21 whether or not such motor vehicles are owned by the person.

22 SECTION 2. AMENDATORY 47 O.S. 2011, Section 1107, is
23 amended to read as follows:
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1 Section 1107. A. In the event of the sale or transfer of the
2 ownership of a vehicle for which a certificate of title has been
3 issued as provided by Section 1105 of this title, the holder of such
4 certificate shall endorse on the back of same a complete assignment
5 thereof with warranty of title in form printed thereon with a
6 statement of all liens or encumbrances on the vehicle, sworn to
7 before a notary public or some other person authorized by law to
8 take acknowledgments, and deliver same to the purchaser or
9 transferee at the time of delivery to the purchaser or transferee of
10 the vehicle. The purchaser or transferee, unless such person is a
11 bona fide used motor vehicle dealer licensed by this state, a retail
12 implement dealer in connection with the purchase or transfer of off-
13 road vehicles or a charitable organization shall, within thirty (30)
14 days from the time of delivery to the purchaser or transferee of the
15 vehicle, present the assigned certificate of title and the insurance
16 security verification to the vehicle to the Oklahoma Tax Commission,
17 or one of its motor license agents, accompanied by a fee of Eleven
18 Dollars (\$11.00), together with any motor vehicle excise tax or
19 license fee that may be due, whereupon a new certificate of title,
20 shall be issued to the assignee. One Dollar (\$1.00) of each fee
21 shall be deposited in the Oklahoma Tax Commission Reimbursement
22 Fund. Any charitable organization utilizing the exemption
23 authorized by this subsection shall receive training as prescribed
24 by the Oklahoma Used Motor Vehicle and Parts Commission.

1 B. A licensed dealer, a retail implement dealer in connection
2 with the sale or disposal of off-road vehicles or a charitable
3 organization shall, on selling or otherwise disposing of a vehicle,
4 execute and deliver to the purchaser thereof the certificate of
5 title properly and completely reassigned. Thereupon, the purchaser
6 of the vehicle shall present the reassigned certificate to the
7 Commission, or a motor license agent, accompanied by a fee of Eleven
8 Dollars (\$11.00), and any motor vehicle excise tax or license fee
9 that may be due, whereupon a new certificate of title will be issued
10 to the purchaser. One Dollar (\$1.00) of each fee shall be deposited
11 in the Oklahoma Tax Commission Reimbursement Fund. The certificate,
12 when so assigned and returned to the Commission, together with any
13 subsequent assignment or reissue thereof, shall be appropriately
14 filed and indexed so that at all times it will be possible to trace
15 title to the vehicle designated therein. Provided, when the
16 ownership of any motor vehicle shall pass by operation of law, the
17 person owning the vehicle may, upon furnishing satisfactory proof to
18 the Commission of ownership, procure a title to the motor vehicle,
19 regardless of whether a certificate of title has ever been issued.
20 The dealer shall execute and deliver to the purchaser bills of sale
21 on forms prescribed by the Commission for all new vehicles sold by
22 the dealer. On presentation of a bill of sale executed on forms
23 prescribed by the Commission, by a manufacturer or dealer for a new
24 vehicle sold in this state, accompanied by remittance in the sum of

1 Eleven Dollars (\$11.00), together with any motor vehicle excise tax
2 or license fee that may be due, a certificate of title shall be
3 issued in accordance with the provisions of the Oklahoma Vehicle
4 License and Registration Act. One Dollar (\$1.00) of each fee shall
5 be deposited in the Oklahoma Tax Commission Reimbursement Fund. For
6 purposes of this subsection, "charitable organization" shall mean
7 any organization which is exempt from taxation pursuant to the
8 provisions of the Internal Revenue Code, 26 U.S.C., Section
9 501(c) (3) and which is registered as a charitable organization with
10 the Oklahoma Secretary of State and the Oklahoma Attorney General's
11 office; "off-road vehicles" means all-terrain vehicles, utility
12 vehicles, and motorcycles used exclusively for off-road use; "retail
13 implement dealer" means a business engaged primarily in the sale of
14 farm tractors as defined in Section 1-118 of this title or
15 implements of husbandry as defined in Section 1-125 of this title or
16 a combination thereof.

17 C. Any person violating the provisions of this section shall be
18 guilty of a misdemeanor and upon the first conviction thereof shall
19 be punished by a fine not to exceed Five Hundred Dollars (\$500.00),
20 with impoundment of the vehicle until all taxes and fees are paid.
21 A second or subsequent conviction shall be punished by a fine not to
22 exceed One Thousand Dollars (\$1,000.00), with impoundment of the
23 vehicle until all taxes and fees are paid. If a vehicle is
24 impounded pursuant to the provisions of this section, the vehicle

1 shall not be released to the owner until the owner provides proof of
2 security or an affidavit that the vehicle will not be used on public
3 highways or public streets, as required pursuant to Section 7-600 et
4 seq. of this title. Each vehicle involved in a violation of this
5 section shall be considered a separate offense.

6 SECTION 3. This act shall become effective November 1, 2015.

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