

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 564

BY: HOOPER

AS INTRODUCED

AN ACT RELATING TO MOTOR VEHICLES; AMENDING 47 O.S. 1981, SECTIONS 583, AS AMENDED BY SECTION 3, CHAPTER 57, O.S.L. 1989, 591.5, 591.11 AND 591.12 (47 O.S. SUPP. 1990, SECTION 583), WHICH RELATE TO USED MOTOR VEHICLE AND PARTS DEALERS; MODIFYING CERTAIN LICENSE FEES; PROVIDING THAT CERTAIN LICENSES EXPIRE ON DECEMBER 31; SPECIFYING RENEWAL DATE; CLARIFYING STATUTORY REFERENCE; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 47 O.S. 1981, Section 583, as amended by Section 3, Chapter 57, O.S.L. 1989 (47 O.S. Supp. 1990, Section 583), is amended to read as follows:

Section 583. A. It shall be unlawful and constitute a misdemeanor for any person, firm, association, corporation or trust to engage in business as, or serve in the capacity of, or act as a used motor vehicle dealer, used motor vehicle salesman, or wholesale used motor vehicle dealer in this state without first obtaining a license therefor as provided in this section; and any person, firm, association, corporation or trust engaging, acting or serving in the capacity of a used motor vehicle dealer and/or a used motor vehicle

salesman or having more than one place where the business of a used motor vehicle dealer is carried on or conducted shall be required to obtain and hold a current license for each thereof in which he, it or they shall engage; provided that a used motor vehicle dealer's license shall authorize one person to sell without a salesman'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; provided that a salesman's license may not be issued under a wholesale used motor vehicle dealer's license. Any person, firm, association, corporation or trust violating the provisions of this section shall, upon conviction, be fined 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. Applications for licenses required to be obtained under provisions of this act, Section 581 et seq. of this title, which creates 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 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 engaged in the pursuit, avocation or business for which a license, or licenses, is applied for, and whether the applicant is able to properly conduct

the business for which a license, or licenses, is applied for, and such other pertinent information consistent with the safeguarding of the public interest and the public welfare. 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. 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 dealers' licenses should be submitted by November 1 of each year, and licenses 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 and act as a dealer thereafter. Tag agents shall be notified not to accept dealers' titles until such time as licenses have been issued.

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

Dealers' payrolls and other evidence will be checked to ascertain that all salesmen 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, Two Hundred Dollars

(\$200.00). 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 applies for a renewal of the license, the fee for each subsequent renewal shall be One Hundred Dollars (\$100.00);

2. For a used motor vehicle dealer's license, for each place of business in addition to the principal place of business, Fifty Dollars (\$50.00);

3. For each used motor vehicle salesman's license, ~~Five Dollars (\$5.00)~~ Fifty Dollars (\$50.00);

4. For each holder who possesses a valid new motor vehicle dealer's license from the Oklahoma Motor Vehicle Commission, ~~One Hundred Dollars (\$100.00)~~ 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 One Hundred Dollars (\$100.00).

D. The license issued to each used motor vehicle dealer and each wholesale used motor vehicle dealer shall specify the location of the place of business. If the business location is changed, the 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 dealer shall be posted in a conspicuous place in the dealer's place or places of business.

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

E. 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 Ten Thousand Dollars (\$10,000.00). 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). 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 he 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 or a wholesale used motor vehicle dealer.

If a motor vehicle dealer has a valid license issued by the Oklahoma Motor Vehicle Commission, then the bond as required by this subsection shall be waived.

Each applicant for a used motor vehicle salesman's license shall procure and file with the Commission a good and sufficient bond in the amount of One Thousand Dollars (\$1,000.00). The bond shall be approved as to form by the Attorney General and conditioned that the applicant shall perform his duties as a used motor vehicle salesman without fraud or fraudulent representation and without violating any provisions of this act.

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.

SECTION 2. AMENDATORY 47 O.S. 1981, Section 591.5, is amended to read as follows:

Section 591.5 An application for a license shall be accompanied by the following fees:

1. ~~Fifty Dollars (\$50.00)~~ Two Hundred Dollars (\$200.00) for an initial license for an applicant's established place of business, ~~Twenty-five Dollars (\$25.00)~~ One Hundred Dollars (\$100.00) for a renewal license for an applicant's established place of business and Fifty Dollars (\$50.00) for each additional place of business, if any, to which the application pertains. ~~If an application is made after July 1 of any year, the license fee shall be Twenty-five Dollars (\$25.00) for an applicant's principal place of business plus Twelve Dollars and fifty cents (\$12.50) for each additional place of business, if any, to which the application pertains.~~ License fees shall be returnable only in the event that the application is denied by the Commission.

2. Any change which renders no longer accurate any information contained in an application for a license filed with the Commission shall be amended within thirty (30) days after the occurrence of the change on the form as the Commission may prescribe by rule or regulation, accompanied by an amendatory fee of Two Dollars (\$2.00) plus Five Dollars (\$5.00) for each additional place of business, if any. If an amendatory application is made after July 1 of any year, the filing fee shall be Two Dollars (\$2.00) plus Three Dollars (\$3.00) for each additional place of business, if any.

3. Every license issued to an automotive dismantler and parts recycler hereunder shall ~~be valid for one (1) year~~ expire on December 31 of each year and shall be renewed on or before January 1 of ~~each~~ the following year.

SECTION 3. AMENDATORY 47 O.S. 1981, Section 591.11, is amended to read as follows:

Section 591.11 Sales at a salvage pool or salvage disposal sale shall be opened only to persons possessing a license or a buyer's identification number to buy at a salvage pool or salvage disposal sale.

1. License and identification numbers to bid or buy at salvage pools or salvage disposal sales shall be issued by the Commission on a form prescribed by it and shall include, but not be limited to, the name, address, driver's license number, physical description and signature of the applicant; and the name and address of the employer of the applicant. The Commission may exact a fee not to exceed ~~Ten Dollars (\$10.00)~~ Twenty-five Dollars (\$25.00) for the issuance or renewal of a buyer's identification card for a resident of this state and a fee not to exceed One Hundred Dollars (\$100.00) for the issuance or renewal of a buyer's identification card for a resident of another state. ~~The B.I.D. card shall be renewable each year for a ten-dollar fee.~~ There shall be no more than three (3) B.I.D. cards per business, as defined in this act.

2. It shall be the duty of the owner, manager or person in charge of any salvage pool or salvage disposal sale to prohibit the bidding by any person who does not display his buyer's identification card number and, further, to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid buyer's identification card.

3. The buyer's identification card may be refused, cancelled or revoked for the same reasons a license under this act may be refused, cancelled or revoked. Any person whose buyer's identification card is refused, cancelled or revoked shall enjoy the same review and appeal procedures as a person whose license is refused, cancelled or revoked.

SECTION 4. AMENDATORY 47 O.S. 1981, Section 591.12, is amended to read as follows:

Section 591.12 Nothing herein shall prohibit salvage dealers licensed in other states from buying at a salvage pool or salvage disposal sale, provided that the state in which they are licensed reciprocates in the same manner to salvage dealers licensed under this law and provided that they obtain a buyer's identification permit and number as required in Section ~~44~~ 591.11 of this ~~act~~ title.

SECTION 5. This act shall become effective July 1, 1991.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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