

ENROLLED SENATE
BILL NO. 1009

By: Herbert of the Senate

and

Glover and Vaughn (George)
of the House

An Act relating to motor vehicles; amending 47 O.S. 1991, Section 581, as last amended by Section 1, Chapter 281, O.S.L. 1993 (47 O.S. Supp. 1993, Section 581), which relates to used motor vehicle and parts dealers; modifying definition; limiting certain exclusion for auctioneers; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 581, as last amended by Section 1, Chapter 281, O.S.L. 1993 (47 O.S. Supp. 1993, Section 581), is amended to read as follows:

Section 581. As used in Sections 581 through 587 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. "Used motor vehicle" means any motor vehicle, as that term is defined in the Motor Vehicle License and Registration Act, 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.

4. "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 such person.

"Used motor vehicle dealer" shall not include:

- a. receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting pursuant to the judgment or order of any court,
- b. public officers while performing their official duties,
- c. employees of persons enumerated in the definition of "used motor vehicle dealer" when engaged in the

specific performance of their duties as such employees,

- d. mortgagees or secured parties as to sales of motor vehicles constituting collateral on a mortgage or security agreement, if such 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 costs of collection,
- e. 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, ~~or~~
- f. any person, firm or corporation who sells, or contracts for the sale of, his own vehicles when such vehicles are sold in liquidation, and any person, firm or corporation who serves as an agent in such sale. The exclusion provided in this paragraph shall not extend to any person, firm or corporation whose business is the purchase, sale or rental with option to purchase motor vehicles, or to a location used for such purposes, or
- g. 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 subparagraph shall not extend to a person who auctions five (5) or more used motor vehicles in a non-liquidation sale held at a licensed used motor vehicle dealer location which is not regularly used as a vehicle auction.

5. "Used motor vehicle salesman" shall include anyone who, for compensation of any kind, operates as a broker or is compensated for any referral of a prospective buyer to a dealer.

6. "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 such person.

7. "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained thereon. The term manufactured home shall not include any manufactured home which is owned by a religious corporation or society and is used exclusively for religious purposes. "Mobile home" means a manufactured home transportable in one section. "Sectional home" means a manufactured home transportable in two or more sections. Said terms shall not include any travel trailer or any self-propelled vehicles used as living quarters, whether referred to as motor homes or by any other name. Provided, that trailers or semitrailers used for the transportation of goods or property, other

than the personal belongings of the owner of such vehicle, shall not be included in this definition.

8. "Manufactured home dealer" means any person, firm or corporation engaged in the business of selling any new and unused, or used, or both new and used manufactured homes. Such information and a valid franchise letter as proof of authorization to sell any such new manufactured home product line or lines shall be attached to said application for a dealer license to sell manufactured homes. "Manufactured home dealer" shall not include any person, firm or corporation who sells or contracts for the sale of his own 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 part of their real estate business. No person, firm or corporation shall be considered a manufactured home dealer as to any manufactured home purchased or acquired by such person, firm or corporation for purposes other than resale; provided, that the restriction set forth in this sentence shall not prevent an otherwise qualified person, firm or corporation from utilizing a single manufactured home as a sales office.

SECTION 2. 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.

Passed the Senate the 28th day of February, 1994.

President of the Senate

Passed the House of Representatives the 19th day of April, 1994.

Speaker of the House of Representatives