

ENGROSSED SENATE
BILL NO. 500

By: Easley of the Senate
and
Hefner of the House

[public health and safety - amending 63 O.S. -
Vessel and Motor Registration Act - creating
Oklahoma Boat Dealers Commission -
effective date]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4045 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Legislature hereby declares that the distribution and sale of new vessel and motor dealerships in this state vitally affect the general economy of the state and the public interest and welfare and that in order to promote the public interest and public welfare and in the exercise of its police powers it is necessary to regulate manufacturers, distributors, dealers, and representatives doing business in Oklahoma.

B. There is hereby created the Oklahoma Boat Dealers Commission composed of nine (9) members, seven of whom shall be active boat dealers and two of whom shall be boat manufacturers. All such members shall have been engaged in business in this state for at least five (5) years next preceding their appointment under this section. Three members shall be appointed by the Governor, three members shall be appointed by the President Pro Tempore and three

members shall be appointed by the Speaker of the House of Representatives. Of the members required to be active boat dealers, one member shall be appointed from each of the six congressional districts and one member shall be appointed at large. The members required to be boat manufacturers shall be appointed at large. The appointments shall be made within thirty (30) days after the effective date of this act. Of the initial members appointed to the Commission, three shall be appointed for terms of four (4) years, two shall be appointed for terms of three (3) years, two shall be appointed for terms of two (2) years and two shall be appointed for terms of one (1) year. Thereafter, members shall be appointed for terms of four (4) years. A vacancy shall be filled for the remainder of the unexpired term. Each member shall continue to serve until a successor is appointed and has been confirmed by the Senate. The members shall elect a chair from among themselves, who shall serve for a term of two (2) years. A majority of the members serving shall constitute a quorum. Members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

C. The Commission shall be vested with the powers and duties necessary and proper to enable it to fully and effectively carry out the provisions, rules, and regulations pertaining to dealer agreements.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 4037.1, is amended to read as follows:

Section 4037.1 In the event that a dealer seeks to establish a new vessel or new motor dealership or relocate an existing vessel or motor dealership within or into a relevant market area where the same product line is then represented, the dealer shall notify the ~~Tax Commission~~ Oklahoma Boat Dealers Commission and each new vessel

or new motor dealer of such product line in the relevant market area of the intention to establish or relocate a dealership within or into that market area. The relevant market area is the area within a radius of fifteen (15) miles of the site of the proposed new vessel or new motor dealership. Within fifteen (15) days of receiving such notice such new vessel or new motor dealer may file with the Oklahoma Boat Dealers Commission a protest to the establishing or relocating of the proposed new vessel or new motor dealership. When such a protest is filed, the Oklahoma Boat Dealers Commission shall inform the dealer that a timely protest has been filed, and that the dealer shall not establish or relocate the proposed new vessel or new motor dealership until the Oklahoma Boat Dealers Commission has held a hearing, nor thereafter, if the Oklahoma Boat Dealers Commission has determined that there is good cause for not permitting such new vessel or new motor dealership. The manufacturer or factory representative of the same product line may obtain a waiver of protest from each new vessel or new motor dealer of the same product line within that relevant market area. If a waiver of protest from each dealer within the relevant market area is not attached to the application for the new dealer seeking to establish, the Oklahoma Boat Dealers Commission shall render a final decision no later than sixty (60) days after the Oklahoma Boat Dealers Commission's receipt of the notice of protest. In any hearing held pursuant to this section on additional dealerships or relocation of dealerships the new dealer or existing dealer relocating shall have the burden of proof. For the purposes of this section, the reopening in a relevant market area of a new vessel or new motor dealership that has not been in operation for two (2) years or more shall be deemed the establishment of a new vessel or new motor dealership. For the purpose of this section, the designation of an additional location in an existing dealership

agreement shall be deemed to be the establishment of a new vessel or new motor dealership.

SECTION 3. This act shall become effective July 1, 1995.

Passed the Senate the 14th day of March, 1995.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1995.

Speaker of the House of Representatives