

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1799

By: Miller

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 47 O.S. 1991, Section 583, as last amended by Section 2, Chapter 332, O.S.L. 1996 (47 O.S. Supp. 1996, Section 583), which relates to Used Motor Vehicle and Parts Dealers; providing exception from certain licensing requirements; providing for certain persons to purchase motor vehicles for resale without certain license; requiring the purchase of certain resale permit; stating that resale permit valid for certain time period; providing for resale permit fee; limiting number of permits which may be purchased; requiring registration of motor vehicle upon expiration of certain time period; providing that certain fees and penalties apply; requiring attachment of resale permit to title; requiring purchaser of motor vehicle to register within certain time period; requiring payment of certain fees; providing for the application of the Oklahoma Vehicle License and Registration Act; amending 47 O.S. 1991, Sections 1141.1, as last amended by Section 2, Chapter 10, O.S.L. 1995, and 1143, as last amended by Section 4, Chapter 208, O.S.L. 1995 (47 O.S. Supp. 1996, Sections 1141.1 and 1143), which relate to motor license agents and fees; authorizing motor license agents to retain certain fee; providing that certain fee is in addition to certain other amounts; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 583, as last amended by Section 2, Chapter 332, O.S.L. 1996 (47 O.S. Supp. 1996, Section 583), is amended to read as follows:

Section 583. A. 1. ~~It~~ Except as provided in Section 2 of this act, 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, wholesale used motor vehicle dealer, or a manufactured home dealer in this state

without first obtaining a license therefor as provided in this section.

2. 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 a manufactured home dealer, or having more than one place where the business of a used motor vehicle dealer or a manufactured home 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. 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. A salesman's license may not be issued under a wholesale used motor vehicle dealer's license.

3. 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. 1. 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 the 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 the application, or otherwise, information relating to:

- a. the applicant's financial standing,
- b. the applicant's business integrity,

- c. 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,
- d. whether the applicant is able to properly conduct the business for which a license, or licenses, is applied for, and
- e. such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

2. 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.

3. 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.

4. 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); provided, if an applicant holds a license to conduct business as an automotive dismantler and parts recycler issued pursuant to Section 591.1 et seq. of this title, the initial fee shall be One Hundred Dollars (\$100.00) and the renewal fee shall be Seventy-five Dollars (\$75.00). If an applicant is applying simultaneously for a license under this paragraph and a license under paragraph 1 of Section 591.5 of this title, the initial application fee shall be One Hundred Fifty Dollars (\$150.00);

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, Ten Dollars (\$10.00);

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) 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);

5. For each manufactured home dealer's license, and for each place of business in addition to the principal place of business, Two Hundred Dollars (\$200.00);

6. For each renewal of a manufactured home dealer's license, and renewal for each place of business in addition to the principal place of business, One Hundred Dollars (\$100.00).

D. 1. The license issued to each used motor vehicle dealer, each wholesale used motor vehicle dealer, and each manufactured

home 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.

2. 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. 1. a. 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). Beginning November 1, 1996, each new applicant for a used motor vehicle dealer's license for the purpose of conducting a used motor vehicle auction or whose business will consist primarily of consignment sales which total One Million Dollars (\$1,000,000.00) or more in gross sales shall procure and file with the Commission a good and sufficient bond in the amount of Fifty Thousand Dollars (\$50,000.00). For purposes of this subsection, "primarily of consignment sales" means seventy-five percent (75%) of sales in number of vehicles sold within the previous twelve (12) months. A new dealer with no history of consignment sales shall be required to purchase a bond in the amount of Ten Thousand Dollars (\$10,000.00). In lieu of the bond, an applicant for a used motor vehicle dealer's license for the purpose of conducting a used motor vehicle auction which is restricted to a dealer-to-dealer transaction may

obtain check and title insurance in an amount not less than the amount of the used motor vehicle auction bond.

- b. 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).
- c. Each applicant for a manufactured home dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000.00).
- d. 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, a wholesale used motor vehicle dealer, or a manufactured home dealer.

2. 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.

3. 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.

4. 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.

G. Any manufactured home dealer is required to furnish and keep in force a minimum of One Hundred Thousand Dollars (\$100,000.00) of garage liability and completed operations insurance coverage.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 583.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Any person in this state may purchase a motor vehicle, travel trailer, recreational vehicle, or a boat or motor, with the express intent to make a profit or gain of money or other thing of value in accordance with the provisions of this section and without obtaining a license pursuant to Section 583 of Title 47 of the Oklahoma Statutes. The person shall be required to purchase from the Oklahoma Tax Commission or a motor license agent a resale permit within thirty (30) days of the purchase of the vehicle. The permit shall be valid for one hundred twenty (120) days from the date of the purchase of the permit. The permit shall be purchased for a fee of Ten Dollars (\$10.00), and if purchased from a motor license agent, the agent shall be permitted to retain Ten Dollars (\$10.00) of such fee. No more than three (3) permits may be purchased by a person each year.

B. The purchaser of the resale permit shall not be required to transfer ownership and register the vehicle in the name of the purchaser unless the vehicle is not resold within one hundred twenty (120) days from the date of the purchase of the permit. At the expiration of this period, the purchaser shall transfer ownership and register the vehicle in the name of the purchaser and pay all applicable registration fees as provided by law. All penalties for failure to register or to transfer ownership of the

vehicle shall be applicable as provided by law if the vehicle is not registered or ownership transferred within thirty (30) days following the end of the resale permit period.

C. Upon the sale of the vehicle by the resale permit holder, the resale permit holder shall attach the resale permit to the title. Within thirty (30) days of the sale or transfer of the vehicle, the purchaser of the vehicle from the resale permit holder shall present the assigned certificate of title with the attached resale permit to the Oklahoma Tax Commission or a motor license agent and all applicable registration fees shall be due and payable. All penalties for failure to register or to transfer ownership of the vehicle shall be applicable as provided by law.

D. Unless otherwise specifically provided in this section, all provisions of the Oklahoma Vehicle License and Registration Act shall apply to the provisions of this section.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 1141.1, as last amended by Section 2, Chapter 10, O.S.L. 1995 (47 O.S. Supp. 1996, Section 1141.1), is amended to read as follows:

Section 1141.1 Each motor license agent shall be entitled to retain the following amounts from the taxes and fees collected by such agent to be used to fund the operation of the office of such motor license agent subject to the provisions of Sections 1140 through 1147 of this title:

1. Two Dollars and twenty-five cents (\$2.25) for each vehicle registered and for each special plate issued pursuant to the Oklahoma Vehicle License and Registration Act;

2. One Dollar and twenty-five cents (\$1.25) for each certificate of title issued for boats and motors pursuant to the Oklahoma Statutes;

3. One Dollar and twenty-five cents (\$1.25) for each certificate of registration issued for boats and motors pursuant to the Oklahoma Statutes;

4. Two Dollars and twenty-five cents (\$2.25) for each certificate of title issued pursuant to the Oklahoma Vehicle License and Registration Act;

5. Four percent (4%) of the excise tax collected pursuant to Section 2102 of Title 68 of the Oklahoma Statutes;
6. Four percent (4%) of the excise tax collected on the transfer of boats and motors pursuant to the Oklahoma Statutes;
7. Two Dollars (\$2.00) for each drivers' license, endorsement, identification license, or renewal or duplicate issued pursuant to Section 6-101 et seq. of this title;
8. Two Dollars (\$2.00) for the recording of security interests as provided in Section 1110 of this title;
9. Two Dollars (\$2.00) for each inspection conducted pursuant to subsection L of Section 1105 of this title;
10. Fifty cents (\$0.50) for each inspection conducted pursuant to Section 1102 of this title;
11. Three Dollars (\$3.00) for each inspection conducted pursuant to subsection M of Section 1105 of this title;
12. One Dollar (\$1.00) for each certificate of ownership filed pursuant to subsection Q of Section 1105 of this title;
13. One Dollar (\$1.00) for each temporary permit issued pursuant to Section 1124 of this title;
14. One Dollar and fifty cents (\$1.50) for processing each proof of financial responsibility, driver's license information, insurance verification information, and other additional information as provided in Section 7-602 of this title;
15. The mailing fees provided in Sections 1131 and 1140 of this title;
16. The notary fee provided in Section 1143 of this title;
17. Three Dollars (\$3.00) for each lien entry form completed and recorded on a certificate of title pursuant to subsection G of Section 1105 of this title;
18. Seven Dollars (\$7.00) for each certificate of title or each certificate of registration issued for repossessed vehicles pursuant to Section 1126 of this title; ~~and~~
19. Any amount specifically authorized by law to be retained by the motor license agent for the furnishing of a summary of a traffic record; and

20. Ten Dollars (\$10.00) for each resale permit issued pursuant to Section 2 of this act.

The balance of the funds collected shall be remitted to the Commission as provided in Section 1142 of this title to be apportioned pursuant to Section 1104 of this title.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 1143, as last amended by Section 4, Chapter 208, O.S.L. 1995 (47 O.S. Supp. 1996, Section 1143), is amended to read as follows:

Section 1143. A. A motor license agent appointed under the provisions of this title shall retain as base compensation those taxes and fees collected and retained pursuant to Section 1141.1 of this title, and after payment of allowable expenses of the motor license agency as defined in subsection C of Section 1146 of this title, shall retain:

1. All amounts remaining from notary and mailing fees received by such agent, after payment of all costs of handling and mailing;

2. All profits from any concessions operated in the agent's office;

3. All amounts collected pursuant to subsection H of Section 1111 of this title; ~~and~~

4. All amounts collected from the resale permit issued pursuant to Section 2 of this act; and

5. An amount not to exceed Forty Thousand Dollars (\$40,000.00) for each calendar year.

B. A motor license agent shall receive a fee of not more than One Dollar (\$1.00) for each document notarized and a fee of fifty cents (\$0.50) for any documents mailed.

C. The Oklahoma Tax Commission shall initiate a mail order vehicle registration notification program, which shall consist of notification annually to all vehicle owners in this state of such time an owner shall register and license his vehicle as provided for in Section 1101 et seq. of this title. The notification issued by the Commission shall include a breakdown of all charges to be paid by the owner, other items deemed necessary by the Commission and shall notify the owner that he has the option of

paying his registration and receiving his license plate or decal through the mail directly from the Commission or of registering and receiving his license plate or decal from a motor license agent. On the back of such registration notification forms ordered after the effective date of this act there shall be the address of the Oklahoma Tax Commission in large black type and an explanation of the apportionment of all license fees and penalties collected and their disposition. Such explanation shall include information as to all charges included in the total license fee and any fees or charges incident to the registration of a motor vehicle, to include all fees that a motor license agent is authorized to collect. If the owner chooses the option of receiving these services through the mail, either from the Commission or the motor license agent, he shall then be instructed to pay the final total listed. The costs of mailing shall be One Dollar (\$1.00) for license plates, fifty cents (\$0.50) for decals and fifty cents (\$0.50) for the mailing of any other form, title, decal or device provided for in the Oklahoma Vehicle License and Registration Act. Provided however, the Commission may adjust any mailing costs from time to time as they deem appropriate and as will allow for additional fees the U.S. Postal Service may charge.

D. Money received by the Commission for the issuance of any registrations, license plates or otherwise shall be apportioned to the schools in accordance with other laws controlling such distributions.

E. Failure by an owner of a vehicle to receive registration notification as provided for in the Motor Vehicle License and Registration Act shall not in any manner relieve such person from the obligation of proper and timely registration and licensing of such vehicle, and such person shall be subject to any penalties prescribed by the Oklahoma Vehicle License and Registration Act.

F. A motor license agent, out of the taxes and fees collected and retained pursuant to Section 1141.1 of this title, shall obtain a faithful performance surety bond or cash bond in the amount of Thirty Thousand Dollars (\$30,000.00) or in such additional amount and form required by the Commission or by this

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act, a blanket surety bond or cash bond covering adequately all office personnel, necessary insurance, necessary office equipment and furniture, and other goods and services essential to the proper operation of the motor license agency. Provided that the Commission shall have the authority to lower such required surety bond to an amount that is commensurate with the amount of business conducted by the motor license agent, but in no event shall that amount be less than Five Thousand Dollars (\$5,000.00). Motor license agents shall obtain the surety bond or cash bond required by this section only during their first year of operation. Thereafter, the motor license agents shall be subject to the provisions of Section 1143.1 of this title.

SECTION 5. This act shall become effective November 1, 1997.

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