

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3274

By: Braddock

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 563 and 579.1, as amended by Section 1, Chapter 324, O.S.L. 1995 (47 O.S. Supp. 1997, Section 579.1), which relate to the Oklahoma Motor Vehicle Commission; requiring certain forms to be approved by the Oklahoma Motor Vehicle Commission; expanding powers of Oklahoma Motor Vehicle Commission; establishing punishment for brokers; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 563, is amended to read as follows:

Section 563. A. There is hereby created the Oklahoma Motor Vehicle Commission, to be composed of nine (9) members. Seven of the members shall have been engaged in the manufacture, distribution or sale of new motor vehicles and two members shall be lay members, all to be appointed by the Governor of the State of Oklahoma, with the advice and consent of the State Senate. Such appointments shall be made within thirty (30) days after the effective date of this section. Each of the Commissioners thus appointed shall, at the time of ~~his~~ the appointment, be a resident in good faith of the

State of Oklahoma; and each shall be of good moral character and each of the industry related Commissioners shall have been actually engaged in the manufacture, distribution or sale of such new motor vehicles for not less than ten (10) years next preceding such appointment. The members of said Commission shall serve at the pleasure of the Governor.

B. 1. The Commissioners shall elect a Chairman from amongst them whose term shall be for one (1) year with the right to succeed him or herself.

2. There shall be three at large members of the Commission. Six members of the Commission shall be appointed from the following geographical areas with at least one member from each area:

- a. four areas of the state shall be the northwest, northeast, southwest and southeast sections designated by Interstate 35 dividing the state east and west and Interstate 40 dividing the state north and south, excluding Oklahoma County and Tulsa County, and
- b. two additional areas shall be Oklahoma County and Tulsa County.

There shall not be more than two members of the Commission from any one area.

C. The terms of office of the members first appointed to the Commission shall be as follows:

1. The members appointed from the northwest, northeast and southwest areas shall serve until June 30, 1987;

2. The members appointed from the southeast area and Oklahoma County and Tulsa County shall serve until June 30, 1989; and

3. The members appointed at large shall serve until June 30, 1991.

Each member shall serve until ~~his~~ a successor is appointed and qualifies. Thereafter, the term of office of each member of the Commission shall be for six (6) years. The term of office of any

member will automatically expire if ~~said~~ the member moves out of the geographical area from which he or she was appointed. In event of death, resignation, removal, or term automatically expiring, of any person serving on said Commission, the vacancy shall be filled by appointment as aforesaid for the unexpired portion of the term. The Commission shall meet at Oklahoma City and complete its organization immediately after the membership thereof has been appointed and has qualified. The Chairman and each member of the Commission shall take and subscribe to the oath of office required of public officers.

D. The members of said Commission shall receive reimbursement for subsistence and traveling expenses necessarily incurred in the performance of their duties as provided by the State Travel Reimbursement Act.

E. The Commission shall appoint a qualified person to serve as Executive Director thereof, which person shall have had not less than ten (10) years of experience in the motor vehicle industry. ~~Said~~ The Executive Director shall be appointed for a term of six (6) years, and shall not be subject to dismissal or removal without cause. The Commission shall fix his or her salary and prescribe his or her duties. The Executive Director shall devote such time as necessary to fulfill the duties thereof, and before entering upon such duties shall take and subscribe to the oath of office. ~~Said~~ The Executive Director may employ such clerical, technical and other help and legal services and incur such expenses as may be necessary for the proper discharge of his or her duties under this act. The Commission shall maintain its office and transact its business in Oklahoma City, and it is authorized to adopt and use a seal. The Executive Director is hereby authorized to hire, retain or otherwise acquire the services of an attorney to represent the Commission in any and all state and federal courts, and assist the Commission in any and all business or legal matters that may come before it. The

attorney so representing the Commission shall discharge his or her duties under the direction of the Executive Director.

F. The Commission is hereby vested with the powers necessary to enable it to fully and effectively carry out the provisions and objects of this act, and is hereby authorized and empowered to make and enforce all reasonable rules ~~and regulations~~ and to adopt and prescribe all forms necessary to accomplish ~~said~~ such purpose. All forms used by a new motor vehicle dealer shall be approved by the Commission. The Commission shall also be vested with the powers necessary to enable it to fully and effectively carry out the provisions of this act relating to licensees under this act selling used motor vehicles.

G. All fees, charges and fines collected under the provisions of this act shall be deposited by the Executive Director in the State Treasury in accordance with the depository laws of this state in a special fund to be known as the "Oklahoma Motor Vehicle Commission Fund", which is hereby created, and except as hereinafter provided the monies in ~~said~~ the fund shall be used by the Commission for the purpose of carrying out and enforcing the provisions of this act; ~~and expenditures.~~ Expenditures from ~~said~~ the fund shall be made upon vouchers approved by the Commission or its authorized officers.

At the close of each fiscal year ~~hereafter~~, ~~said~~ the Commission shall file with the Governor and the State Auditor and Inspector a true and correct report of all fees, fines and charges collected and received by it during the preceding fiscal year and shall at the same time pay into the General Revenue Fund of the state a sum equal to ten percent (10%) of the fees, fines and charges so collected and received.

All expenses incurred by the Commission in carrying out the provisions of this act, including but not limited to per diem, wages, salaries, rent, postage, advertising, supplies, bond

premiums, travel and subsistence for the Commissioners, the Executive Director, employees, and legal counsel, and printing and utilities, shall be a proper charge against such fund, exclusive of the portion thereof to be paid into the General Revenue Fund as above set out; ~~provided, that in.~~ In no event shall liability ever accrue hereunder against ~~the State of Oklahoma~~ this state in any sum whatsoever, or against ~~said~~ the Oklahoma Motor Vehicle Commission Fund, in excess of the ninety percent (90%) of the fees, fines and charges deposited therein.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 579.1, as amended by Section 1, Chapter 324, O.S.L. 1995 (47 O.S. Supp. 1997, Section 579.1), is amended to read as follows:

Section 579.1 A. It shall be unlawful to be a broker.

B. For the purposes of this section, "broker" means a person who, for a fee, commission or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle, and who is not:

1. A new motor vehicle dealer or employee of such a dealer; or
2. A distributor or employee of such a distributor.

However, an individual shall not be deemed to be a broker if he or she is the owner of the new or used motor vehicle which is the object of the brokering transaction.

C. Any person convicted of being a broker as defined by this section shall upon conviction be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year, and a fine of not more than One Thousand Dollars (\$1,000.00). Any person convicted of a second or subsequent offense shall be guilty of a Schedule G felony offense, and the fine for a felony violation of this section shall be not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00).

SECTION 3. This act shall become effective November 1, 1998.

46-2-8592

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