

ENROLLED HOUSE  
BILL NO. 2177

By: Matlock of the House

and

Leftwich of the Senate

An Act relating to motor vehicles; amending 47 O.S. 1991, Section 581, as last amended by Section 1, Chapter 155, O.S.L. 1999 (47 O.S. Supp. 1999, Section 581), which relates to definitions concerning the Oklahoma Used Motor Vehicle and Parts Commission; modifying and adding definitions; amending 47 O.S. 1991, Section 582, as last amended by Section 2, Chapter 155, O.S.L. 1999 (47 O.S. Supp. 1999, Section 582), which relates to the Oklahoma Used Motor Vehicle and Parts Commission; modifying membership of the Commission; modifying appointment requirements and procedures; authorizing the Commission to promulgate certain rules; modifying certain duties; amending 47 O.S. 1991, Section 583, as last amended by Section 3, Chapter 155, O.S.L. 1999 (47 O.S. Supp. 1999, Section 583), which relates to prohibited acts, applications, fees and responsibilities of a licensee; including manufactured home installers and manufactured home manufacturers in such provisions; prohibiting certain acts; providing for certain fees and renewal fees; providing for licenses of manufactured home installers; requiring contractors and subcontractors to have a separate manufactured home installer license; authorizing manufactured home dealers to furnish and keep monies of general liability with products; amending 47 O.S. 1991, Section 584, as amended by Section 4, Chapter 140, O.S.L. 1992 (47 O.S. Supp. 1999, Section 584), which relates to disciplinary actions involving certain dealers; adding to certain violations; including manufactured home installers and manufactured home manufacturers in such actions; specifying violations which result in such actions; creating the Manufactured Home Advisory Committee; providing for membership, appointments, terms, qualifications, officers, and powers and duties; requiring law to be construed in a certain way; amending 47 O.S. 1991, Section 1102, as last amended by Section 1, Chapter 199, O.S.L. 1998 (47 O.S. Supp. 1999, Section 1102), which relates to the Oklahoma Vehicle License and Registration Act; modifying definition; amending 68 O.S. 1991, Section 2101, as amended by Section 44, Chapter 366, O.S.L. 1993 (68 O.S. Supp. 1999, Section 2101), which relates to the vehicle excise tax; modifying definition; providing for codification; 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. 1991, Section 581, as last amended by Section 1, Chapter 155, O.S.L. 1999 (47 O.S. Supp. 1999, Section 581), is amended to read as follows:

Section 581. As used in Sections 581 ~~through 587~~ et seq. 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. "Consignment sale" means the sale of used motor vehicles belonging to another by a used motor vehicle dealer, whether or not title is transferred from the consignor to the used motor vehicle dealer;

4. "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, covers 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. For the purposes of Sections 581 through 587 of this title, the term "manufactured home" shall not include any structure or vehicle 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. These terms shall not include any travel trailer or any self-propelled vehicle used as living quarters, whether referred to as a motor home or by any other name. Trailers or semitrailers used for the transportation of goods or property other than the personal belongings of the owner of the vehicle shall not be included in this definition~~ residential dwelling in one or more sections built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401, et seq. and rules promulgated pursuant thereto;

5. a. "Manufactured home dealer" means any person, ~~firm, corporation, or other legal authority~~ who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, offers to sell, or attempts to negotiate a sale or exchange of interest in, new or used manufactured homes, or that is engaged wholly or in part in the business of selling any new and unused, or used, or both new and used manufactured homes. A valid franchise letter as proof of authorization to sell any new manufactured home product line or lines shall be attached to the application for a dealer license to sell manufactured homes.

- b. "Manufactured home dealer" shall not include any ~~person, firm, corporation, or other legal entity~~ who sells or contracts for the sale of a 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 a part of a real estate business. No ~~person, firm, corporation, or other legal entity~~ shall be considered a manufactured home dealer as to any manufactured home purchased or acquired by the ~~person, firm, corporation, or other legal entity~~ for purposes other than resale; provided, that the restriction set forth in this sentence shall not prevent an otherwise qualified ~~person, firm, corporation, or other legal entity~~ from utilizing a single manufactured home as a sales office;

6. "Manufactured home installer" means a person who is engaged in the business of installing or setting up manufactured homes and/or mobile homes as defined herein;

~~6.~~ 7. "Manufactured home manufacturer" means a person who manufactures, assembles, and sells new manufactured homes to new manufactured home retailers for resale in this state;

8. "Mobile home" means a residential dwelling fabricated in an off-site manufacturing facility, designed to be a permanent residence, but which is still transportable, that was built prior to the enacting of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401, et seq.;

9. "Person" means an individual, business, corporation, partnership, association, limited liability corporation, trust, firm, or company or legal entity, but does not include any political subdivision;

~~7.~~ 10. "Rebuilder" means a used motor vehicle dealer who is engaged in the business of rebuilding repairable motor vehicles and who has paid the fee for and been issued a rebuilder certificate as provided by Section 591.5 of this title;

~~8.~~ 11. "Sale" or "sell" means the act of selling, brokering, exchanging, exchanging of an interest in, or renting with the option of purchasing, a new or used manufactured home for commission, profit, or gain of money or other thing of value;

~~9.~~ 12. "Used motor vehicle" means any motor vehicle, as that term is defined in the Oklahoma 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;

~~10.~~ 13. "Used motor vehicle auction" means any business other than salvage pools which regularly engages in the sale or trade, or negotiates the sale or trade, of used motor vehicles by auction, whether by open or closed bid or by sale to or purchase by used motor vehicle dealers or individuals;

~~11.~~

14. a. "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 the person.

b. "Used motor vehicle dealer" shall not include:

- (1) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting pursuant to the judgment or order of any court,
- (2) public officers while performing their official duties,
- (3) employees of persons enumerated in the definition of "used motor vehicle dealer" when engaged in the specific performance of their duties as such employees,
- (4) mortgagees or secured parties as to sales of motor vehicles constituting collateral on a mortgage or security agreement, if the 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 the costs of collection,
- (5) 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,
- (6) any person, firm, corporation, or other legal entity who sells, or contracts for the sale of, the vehicles of the person, firm, corporation, or other legal entity when such vehicles are sold in liquidation, and any person, firm, corporation, or other legal entity who serves as an agent in such sale. The exclusion provided in this paragraph shall not extend to any person, firm, corporation, or other legal entity whose business is the purchase, sale, or rental with option to purchase, of motor vehicles, or to a location used for such purposes, or

- (7) 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 division shall not extend to a person who auctions five or more used motor vehicles in a nonliquidation sale held at a licensed used motor vehicle dealer location which is not regularly used as a vehicle auction;

~~12.~~ 15. "Used motor vehicle salesperson" means a person employed by a licensed used motor vehicle dealer to sell, broker, exchange, or negotiate a purchase, sale, or rental with option to purchase, used motor vehicles or an interest in used motor vehicles. Used motor vehicle salesman shall not include any person who:

- a. uses the person's own funds for such transactions,
- b. operates independently as a used motor vehicle dealer using a licensed used motor vehicle dealer's license number, or
- c. is licensed by the Oklahoma Motor Vehicle Commission to sell new or unused motor vehicles who also sells used motor vehicles for the dealer at the motor vehicle dealer's licensed franchise location; provided, such a person shall only be authorized to sell used motor vehicles for the dealer at the motor vehicle dealer's licensed franchise location and to represent the motor vehicle dealer at used motor vehicle auctions without obtaining a separate used motor vehicle salesman's license; and

~~13.~~ 16. "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 the person.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 582, as last amended by Section 2, Chapter 155, O.S.L. 1999 (47 O.S. Supp. 1999, Section 582), is amended to read as follows:

Section 582. A. There is hereby created the Oklahoma Used Motor Vehicle and Parts Commission, to be composed of ~~one~~ ten (10) members who shall be selected as follows:

1.
  - a. one member shall be selected from each of the ~~six~~ congressional districts of this state, ~~two members to be selected from the state at large,~~ and
  - b. a chair ~~to~~ and all other members shall be selected from the state at large, ~~all to;~~

2. All members shall be appointed by the Governor, by and with the advice and consent of the Senate. ~~Each;~~

3.
  - a. each of the Commissioners members appointed from a congressional district shall, at the time of appointment, be a resident in good faith of the congressional district from which appointed, except the two at-large members and the chair, who and
  - b. each of the members appointed from the state at large shall, at the time of appointment and during the period of service, be residents in good faith of the state;

4. Each member shall be of good moral character and, for the ten-year period immediately preceding appointment, each of the used motor vehicle dealer representatives shall have been licensed for and actually engaged in the manufacture, distribution or sale of used motor vehicles or manufactured homes, or; each of the dismantler representatives shall have actually been licensed for and engaged in the principal business of purchasing and dismantling or disassembling motor vehicles for the purpose of selling the parts thereof in the state for not less than ten (10) consecutive years next preceding appointment; and the manufactured housing representative shall have been licensed for and actually engaged in the principal business of selling manufactured homes; and

5. Eight members plus the chair shall be engaged in the used motor vehicle industry or the automotive dismantler industry. There shall not be fewer than four five members engaged in the principal business of the sale of used motor vehicles and there shall not be fewer than two members engaged in the principal business of dismantling or disassembling motor vehicles for the purpose of selling the parts thereof. One of the at-large members shall be engaged in the principal business of selling manufactured homes as a licensed manufactured home dealer. Being engaged in one or more of such pursuits shall not disqualify a person otherwise qualified from serving on the Commission.

B. 1. The term of the chair shall be coterminous with that of the Governor making the appointment, and until a successor is appointed and is qualified. The terms of office of the members first appointed to the Commission shall be as follows: The members appointed from the First and Second Congressional Districts shall serve until June 30, 1982; the members appointed from the Third and Fourth Congressional Districts shall serve until June 30, 1984; the members appointed from the Fifth and Sixth Congressional Districts shall serve until June 30, 1986; one at-large member appointed shall serve until June 30, 1996; and one at-large member appointed shall serve until June 30, 1998; provided, however, that each member shall serve until a successor is appointed and is qualified. Thereafter,

2. The terms of office of each member of the Commission shall be subject to the following:

- a. the Commission shall determine and certify the trade associations of manufactured home dealers that represent ten percent (10%) or more of the number of licensed manufactured home dealers in the state and shall certify each such association to the Governor. The Governor shall request a minimum of ten names from each such association and shall select one member from

the manufactured home industry from the names provided,

- b. each member actively serving July 1, 2000, who was appointed on or before June 30, 2000, shall remain and fulfill the term of his or her membership as set forth at the appointment,
- c. except for the chair, the term of office of each member of the Commission shall be for six (6) years.~~Except,~~
- d. except for the ~~term of office of the two~~ chair and the at-large members, the term of office of any member will automatically expire if the member moves out of the congressional district from which appointed.~~In,~~
- e. in event of death, resignation, or removal, ~~or term automatically expiring,~~ of any person serving on the Commission, the vacancy shall be filled by appointment as aforesaid for the unexpired portion of the term,
- f. except for the chair, when the term of a member automatically expires, the vacancy shall be filled by appointment of a qualified successor for a term of six (6) years as aforesaid, except that the member shall serve until a successor is appointed and qualified.

~~2. The Commission shall meet at Oklahoma City and complete its organization immediately after the entire membership has been appointed and has qualified.~~ 3. The chair and each member of the Commission shall take and subscribe to the oath of office required of public officers.

C. The chair and members of the Commission shall receive Thirty Dollars (\$30.00) for each and every day actually and necessarily spent in attending the meetings of the Commission, and shall be reimbursed for subsistence and traveling expenses incurred in the performance of their duties hereunder as provided by the State Travel Reimbursement Act; provided that such meeting payments shall not exceed the sum of Six Hundred Dollars (\$600.00) per annum to any one person.

- D. 1. a. The Commission shall appoint a qualified person to serve as Executive Director who shall have had sufficient management and organizational experience in the automotive industry to direct the functions of the Commission.
- b. The Executive Director shall be appointed for a term of six (6) years, and shall not be subject to dismissal or removal without cause.
- c. The Commission shall fix the salary and define and prescribe the duties of the Executive Director.
- d. The Executive Director shall be in charge of the Commission's office, shall devote such time as necessary to fulfill the duties thereof, and, before

entering upon these duties, shall take and subscribe to the oath of office.

2. The Commission may employ such clerical, technical, legal and other help and incur such expenses as may be necessary for the proper discharge of its duties under Section 581 et seq. of this title.

3. The Commission shall maintain its office and transact its business in Oklahoma City, and is authorized to adopt and use a seal.

E. 1. a. The Commission is hereby vested with the powers and duties necessary and proper to enable it to fully and effectively carry out the provisions and objectives of Section 581 et seq. of this title, and is hereby authorized and empowered, pursuant to the Administrative Procedures Act, to make and enforce all reasonable rules and to adopt and prescribe all forms necessary to accomplish said purpose.

b. The Commission shall promulgate rules for the licensing of manufactured home installers.

c. The Commission shall promulgate rules to prescribe the contents of manufactured home sales agreements and to require that each manufactured home manufacturer issue with each new manufactured home a warranty comparable to warranties generally in use in the industry warranting the manufactured home to be free from material defects.

d. The enumeration of any power or authority herein shall not be construed to deny, impair, disparage or limit any others necessary to the attainment thereof.

e. A copy of all rules ~~and regulations~~ adopted by the Commission shall be filed and recorded in the office of the Secretary of State and the State Librarian and Archivist, and same may be amended, modified or repealed from time to time.

2. The Commission's powers and duties shall include, but not be limited to, the following:

a. to license used motor vehicle dealers, used motor vehicle salespersons, wholesale used motor vehicle dealers, dismantlers, and manufactured home dealers, manufactured home manufacturers, and manufactured home installers,

b. to inspect used motor vehicle dealer, dismantler and manufactured home dealer locations, and manufactured home manufacturers' factories or assembly sites to ensure that they are in an approved location, meet local zoning or other municipal requirements, and have sufficient facilities which shall include, but not be limited to, for retail businesses, a business sign, a listed and usable telephone number, a restroom, and a sales office,

- c. to inspect wholesale used motor vehicle dealer locations to ensure that they are in an approved location, meet local zoning or other municipal requirements, and have sufficient facilities which shall include, but not be limited to, a listed and usable telephone number in the dealer's name and a business office where records of the business are kept,
- d. to require all dealer sales to have a condition of sale such as a warranty disclaimer, implied or written warranty or a service contract approved by the Commission,
- e. to work with consumers and dealers to hear complaints on used vehicles and parts and establish a Used Car Consumer Action Panel to hear complaints on a condition of sale, implied and written warranties, and service complaints, and
- f. to serve as a dispute resolution panel for binding arbitration in accordance with Section 801 et seq. of Title 15 of the Oklahoma Statutes in contract controversies between licensed used motor vehicle dealers, dismantlers and manufactured housing dealers and their consumers when, by mutual written agreement executed after the dispute between the parties has arisen, both parties have agreed to use the ~~Oklahoma Used Motor Vehicle and Parts~~ Commission as their arbitration panel for contract disputes.

F. 1. All fees and charges collected under the provisions of Section 581 et seq. of this title 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 Used Motor Vehicle and Parts Commission Fund", which fund is hereby created. Except as hereinafter provided, the monies in the fund shall be used by the Commission for the purpose of carrying out and enforcing the provisions of Section 581 et seq. of this title. Expenditures from the fund shall be warrants issued by the State Treasurer against claims submitted by the Commission to the Director of State Finance for approval.

2. At the close of each fiscal year, the Commission shall file with the Governor and the State Auditor and Inspector a true and correct report of all fees 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 gross fees and charges so collected and received.

3. All expenses incurred by the Commission in carrying out the provisions of Section 581 et seq. of this title 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 the fund, exclusive of the portion thereof to be paid into the General Revenue Fund as above set out; provided, that in no event shall liability ever accrue hereunder against the state in any sum whatsoever, or against the Oklahoma Used Motor Vehicle and Parts

Commission Fund, in excess of the ninety percent (90%) of the fees and charges deposited therein.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 583, as last amended by Section 3, Chapter 155, O.S.L. 1999 (47 O.S. Supp. 1999, Section 583), is amended to read as follows:

Section 583. A. 1. 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 salesperson, wholesale used motor vehicle dealer, manufactured home dealer, manufactured home installer, or manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state without first obtaining a license or following other requirements therefor as provided in this section.

2.
  - a. 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 salesperson, ~~or a manufactured home dealer,~~ a manufactured home installer, or a manufactured home manufacturer, or having more than one place where ~~the business of a used motor vehicle dealer or a manufactured home dealer~~ any such business, or combination of businesses, is carried on or conducted shall be required to obtain and hold a current license for each ~~thereof~~ such business, in which engaged.
  - b. A used motor vehicle dealer's license shall authorize one person to sell without a salesperson'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.
  - c. A salesperson'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 or herself 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 salesperson's license shall permit the licensee to engage in the activities of a used motor vehicle salesperson. Salespersons shall not be allowed to sell vehicles unless applications, bonds, and fees are on file with the Commission and the motor vehicle salesperson's or temporary salesperson's license issued. A temporary salesperson's license, salesperson's renewal or reissue of salesperson'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 salespersons 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 or she 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 salesperson'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. a. 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.~~ b. 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); ~~and~~

6. a. For each manufactured home installer's license, Two Hundred Dollars (\$200.00).

b. For each renewal of a manufactured home installer's license, Two Hundred Dollars (\$200.00); and

7. a. For each manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state, Seven Hundred Fifty Dollars (\$750.00).

b. For each renewal of a manufactured home manufacturer's license, Seven Hundred Fifty Dollars (\$750.00).

D. 1. The license issued to each used motor vehicle dealer, each wholesale used motor vehicle dealer, ~~and~~ each manufactured home dealer, each manufactured home installer, and each manufactured home manufacturer 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~~ licensee shall be posted in a conspicuous place in the ~~dealer's~~ place or places of business of the licensee.

2. Every used motor vehicle salesperson shall have the license upon his or her person when engaged in business, and shall display same upon request. The name of the employer of the salesperson shall be stated on the license and if there is a change of employer, the license holder shall immediately mail the 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 or her person.

3. Every manufactured home installer shall have the license available for inspection at the primary place of business of the licensee. This license shall be valid for the licensee and all of the employees of the licensee. Any person who is not an employee of the licensee must obtain a separate manufactured home installer license regardless of whether such person is acting in the capacity of a contractor or subcontractor.

- 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. Each manufactured home manufacturing facility selling directly to a licensed manufactured home dealer in this state shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000.00). In addition to all other conditions and requirements set forth herein, the bond shall require the availability of prompt and full warranty service by the manufacturer to comply with all warranties expressed or implied in connection with each manufactured home which is manufactured for resale in this state.
- e. 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 the applicant 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 salesperson'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 duties as a used motor vehicle salesperson 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 or general liability with products and completed operations insurance coverage.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 584, as amended by Section 4, Chapter 140, O.S.L. 1992 (47 O.S. Supp. 1999, Section 584), is amended to read as follows:

Section 584. A. The Commission may deny an application for a license, or revoke or suspend a license after it has been granted, for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant or the licensee, as the case may be, under the standards established by this act;

2. For fraud practices or any material misstatement made by an applicant in any application for license under the provisions of this act;

3. For any willful failure to comply with any provision of this act or with any rule or regulation adopted and promulgated by the Commission under authority vested in it by this act;

4. Change of condition after license is granted resulting in failure to maintain the qualifications for license;

5. Continued or flagrant violation of any of the rules or regulations of the Commission;

6. Being a used motor vehicle dealer, used motor vehicle salesman, a wholesale used motor vehicle dealer, or a manufactured home dealer, a manufactured home installer, or a manufactured home manufacturer who:

- a. resorts to or uses any false or misleading advertising in connection with his business,
- b. has committed any unlawful act which resulted in the revocation of any similar license in another state,
- c. has been convicted of a crime involving moral turpitude,
- d. has committed a fraudulent act in selling, purchasing or otherwise dealing in motor vehicles or manufactured homes or has misrepresented the terms and conditions of a sale, purchase or contract for sale or purchase of a motor vehicle or manufactured home or any interest therein including an option to purchase such motor vehicles or manufactured homes,
- e. has engaged in his business under a past or present license issued pursuant to this act, in such a manner as to cause injury to the public or to those with whom he or she is dealing,
- f. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license, ~~or~~
- g. has failed or refused to furnish and keep in force any bond required under this act; or
- h. has installed or attempted to install a manufactured home or mobile home in an unworkman-like manner,

7. Being a used motor vehicle dealer who:

- a. does not have an established place of business,
- b. employs unlicensed salesmen or other unlicensed persons in connection with the sale of used vehicles,
- c. fails or refuses to furnish or keep in force single limit liability insurance on any vehicle offered for sale and otherwise required under the financial responsibility laws of this state, or
- d. is not operating from the address shown on his license if this change has not been reported to the Commission; or

8. Being a manufactured home dealer who:

- a. does not have an established place of business,

- b. fails or refuses to furnish or keep in force garage liability and completed operations insurance, or
- c. is not operating from the address shown on his license if this change has not been reported to the Commission.

B. The Commission shall deny an application for a license, or revoke or suspend a license after it has been granted, if a manufactured home dealer does not meet the following guidelines and restrictions:

1. A display area for mobile homes which is easily accessible, with sufficient parking for the public;

2. An office for conducting business where the books, records, and files are kept, with access to a restroom for the public;

3. Place of business shall meet all zoning occupancy and other requirements of the appropriate local government and shall be regularly occupied by a person, firm, or corporation engaged in the business of selling manufactured or mobile homes; and

4. Place of business must be separate and apart from any other dealer's location;

C. The Commission shall deny an application for a license, or revoke or suspend a license after it has been granted, if a manufactured home installer:

1. Installs or attempts to install a manufactured home or a mobile home in a manner that is not in compliance with installation standards as set by the Commission pursuant to rule; or

2. Violates or fails to comply with any applicable rule as promulgated by the Commission concerning manufactured home installers.

D. 1. The Commission shall deny an application for a license, or revoke or suspend a license after it has been granted, if a manufactured home manufacturer; or

2. Violates or fails to comply with any applicable rule as promulgated by the Commission concerning manufactured home manufacturers.

E. Each of the aforementioned grounds for suspension, revocation, or denial of issuance or renewal of license shall also constitute a violation of this act, unless the person involved has been tried and acquitted of the offense constituting such grounds.

The suspension, revocation or refusal to issue or renew a license or the imposition of any other penalty by the Commission shall be in addition to any penalty which might be imposed upon any licensee upon a conviction at law for any violation of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 582.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Manufactured Home Advisory Committee which shall consist of five (5) members who shall be appointed as follows:

1. The members shall be appointed by the Governor from a list of not less than twenty names submitted by the Trade Association of Manufactured Home Dealers, as certified by the Commission, as set forth herein;

2. The members shall be appointed for terms of three (3) years; except that, for the first committee appointed, two members shall be appointed for two (2) years with terms ending June 30, 2002, two members shall be appointed for three (3) years with terms ending June 30, 2003, and one member shall be appointed for four (4) years with a term ending June 30, 2004; and

3. The members shall be licensed and primarily engaged in the manufactured housing industry.

B. The Manufactured Home Advisory Committee shall choose from their membership a person to act as the chair and shall meet as necessary.

C. The Manufactured Home Advisory Committee shall provide specific recommendations and advice to the Commission on manufactured home industry issues including, but not limited to:

1. Claims or complaints concerning noncompliances, defects, serious defects, or imminent safety hazards filed by consumers and to resolve such claims or complaints;

2. Adoption of guidelines for the installation of manufactured homes and mobile homes; and

3. Licensure requirements for manufactured home dealers, manufactured home manufacturers, and manufactured home installers.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 588 of Title 47, unless there is created a duplication in numbering, reads as follows:

Nothing in Section 581 et seq. of Title 47 of the Oklahoma Statutes shall be construed as prohibiting a person who has purchased a manufactured home to be used by the person for his or her own personal use from installing the manufactured home without holding a license; provided, nothing in this section shall be construed as continuing or extending any warranty otherwise terminated or voided by the owner's installation or attempted installation.

SECTION 7. AMENDATORY 47 O.S. 1991, Section 1102, as last amended by Section 1, Chapter 199, O.S.L. 1998 (47 O.S. Supp. 1999, Section 1102), is amended to read as follows:

Section 1102. As used in this act:

1. "Carrying capacity" means the carrying capacity of a vehicle as determined or declared in tons of cargo or payload by the owner, provided, that such declared capacity shall not be less than the

minimum tonnage capacity fixed, listed or advertised by the manufacturer of any vehicle;

2. "Certificate of title" means a document which is proof of legal ownership of a motor vehicle as described and provided for in Section 1105 of this title;

3. "Chips and oil" or the term "road oil and crushed rock" means, with respect to materials authorized for use in the surfacing of roads or highways in this title or in any equivalent statute pertaining to road or highway surfacing in the State of Oklahoma, any asphaltic materials. Wherever chips and oil or road oil and crushed rock are authorized for use in the surfacing of roads or highways in this state, whether by the Department of Transportation, or by the county commissioners, or other road building authority subject to this act, asphaltic materials are also authorized for use in such surfacing and construction;

4. "Combined laden weight" means the weight of a truck or station wagon and its cargo or payload transported thereon, or the weight of a truck or truck-tractor plus the weight of any trailers or semitrailers together with the cargo or payload transported thereon;

5. "Commercial trailer" means any trailer, as defined in Section 1-180 of this title, or semitrailer, as defined in Section 1-162 of this title, when such trailer or semitrailer is used primarily for business or commercial purposes;

6. "Commercial trailer dealer" means any person, firm or corporation engaged in the business of selling any new and unused, or used, or both new and used commercial trailers;

7. "Commercial vehicle" means any vehicle over eight thousand (8,000) pounds combined laden weight used primarily for business or commercial purposes. Each motor vehicle being registered pursuant to the provisions of this section shall have the name of the commercial establishment or the words "Commercial Vehicle" permanently and prominently displayed upon the outside of the vehicle in letters not less than two (2) inches high and two (2) inches wide. Such letters shall be in sharp contrast to the background and shall be of sufficient shape and color as to be readily legible during daylight hours, from a distance of fifty (50) feet while the vehicle is not in motion. The Commission or its motor license agents shall make physical inspections of commercial vehicles as provided for in Section 1133.1 of this title, if by law said vehicles are required to be inspected to verify that said lettering is permanently displayed as required by this paragraph. A fee of fifty cents (\$.50) shall be charged for making such inspection. Any commercial vehicle with a combined laden weight of over twenty-six thousand (26,000) pounds registered pursuant to the provisions of Section 1133 of this title shall not be subject to physical inspection by the Commission or its motor license agents. Any commercial vehicle with a combined laden weight of twenty-six thousand (26,000) pounds or less registered pursuant to Section 1133 or 1133.1 of this title shall be subject to physical inspection by the Commission or its motor license agent only at the time the vehicle is first registered in this state and upon the transfer of ownership of such vehicle;

8. "Commission" means the Oklahoma Tax Commission;

9. "Dealer" means any person, firm, association, corporation or trust who sells, solicits or advertises the sale of new and unused motor vehicles and holds a bona fide contract or franchise in effect with a manufacturer or distributor of a particular make of new or unused motor vehicle or vehicles for the sale of same;

10. "Interstate commerce" means any commerce moving between any place in a state and any place in another state or between places in the same state through another state;

11. "Laden weight" means the combined weight of a vehicle when fully equipped for use and the cargo or payload transported thereon; provided that in no event shall the laden weight be less than the unladen weight of the vehicle fully equipped for use, plus the manufacturer's rated carrying capacity;

12. "Local authorities" means every county, municipality or local board or body having authority to adopt police regulations under the Constitution and laws of this state;

13. ~~"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~~ residential dwelling built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq., and rules promulgated pursuant thereto and the rules promulgated by the Oklahoma Used Motor Vehicle and Parts Commission pursuant to Section 582 of this title;

14. "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. 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;

15. "Motor license agent" means any person appointed, designated or authorized by the Oklahoma Tax Commission to collect the fees and to enforce the provisions provided for in this act;

16. "New vehicle" or "unused vehicle" means a vehicle which has been in the possession of the manufacturer, distributor or wholesaler or has been sold only by the manufacturer, distributor or wholesaler to a dealer;

17. "Nonresident" means any person who is not a resident of this state;

18. "Owner" means any person owning, operating or possessing any vehicle herein defined;

19. "Person" means any individual, copartner, joint venture, association, corporation, limited liability company, estate, trust, business trust, syndicate, the State of Oklahoma, or any county, city, municipality, school district or other political subdivision thereof, or any group or combination acting as a unit, or any receiver appointed by the state or federal court;

20. "Recreational vehicle" means every vehicle which is built on or permanently attached to a self-propelled motor chassis or chassis cab which becomes an integral part of the completed vehicle and is capable of being operated on the highways. In order to qualify as a recreational vehicle pursuant to this paragraph such vehicle shall be permanently constructed and equipped for human habitation, having its own sleeping and kitchen facilities, including permanently affixed cooking facilities, water tanks and holding tank with permanent toilet facilities. Recreational vehicle shall not include manufactured homes or any vehicle with portable sleeping, toilet and kitchen facilities which are designed to be removed from such vehicle;

21. "Rental trailer" means all small or utility trailers or semitrailers constructed and suitable for towing by a passenger automobile and designed only for carrying property, when said trailers or semitrailers are owned by, or are in the possession of, any person engaged in renting or leasing such trailers or semitrailers for intrastate or interstate use or combined intrastate and interstate use;

22. "Special mobilized machinery" means special purpose machines, either self-propelled or drawn as trailers or semitrailers, which derive no revenue from the transportation of persons or property, whose use of the highway is only incidental, and whose useful revenue producing service is performed at destinations in an area away from the traveled surface of an established open highway;

23. "State" means the State of Oklahoma;

24. "Station wagon" means any passenger vehicle which does not have a separate luggage compartment or trunk and which does not have open beds, and has one or more rear seats readily lifted out or folded, whether same is called a station wagon or ranch wagon;

25. "Travel trailer" means any vehicular portable structure built on a chassis, used as a temporary dwelling for travel, recreational or vacation use, and, when factory-equipped for the road, it shall have a body width not exceeding eight (8) feet and an overall length not exceeding forty (40) feet, including the hitch or coupling;

26. "Travel trailer dealer" means any person, firm or corporation engaged in the business of selling any new and unused, or used, or both new and used travel trailers. Such information and a valid franchise letter as proof of authorization to sell any such new travel trailer product line or lines shall be attached to said application for a dealer license to sell travel trailers. "Travel trailer dealer" shall not include any person, firm or corporation who sells or contracts for the sale of his own personally titled travel trailer or trailers. No person, firm or corporation shall be considered as a travel trailer dealer as to any travel trailer purchased or acquired by such person, firm or corporation for purposes other than resale;

27. "Used motor vehicle dealer" means "used motor vehicle dealer" as defined in Section 581 of this title;

28. "Used vehicle" means any vehicle which has been sold, bargained, exchanged or given away, or used to the extent that it has become what is commonly known, and generally recognized, as a "secondhand" vehicle. This shall also include any vehicle, regardless of age, owned by any person who is not a dealer; and

29. "Vehicle" means any type of conveyance or device in, upon or by which a person or property is or may be transported from one location to another upon the avenues of public access within the state. "Vehicle" does not include bicycles, trailers except travel trailers and rental trailers, or implements of husbandry as defined in Section 1-125 of this title. All implements of husbandry used as conveyances shall be required to display the owner's driver's license number or license plate number of any vehicle owned by the owner of the implement of husbandry on the rear of the implement in numbers not less than two (2) inches in height. The use of the owner's social security number on the rear of the implement of husbandry shall not be required.

SECTION 8. AMENDATORY 68 O.S. 1991, Section 2101, as amended by Section 44, Chapter 366, O.S.L. 1993 (68 O.S. Supp. 1999, Section 2101), is amended to read as follows:

Section 2101. For the purpose of this article:

(a) The term "motor vehicle" means and includes every automobile, truck, truck-tractor, or any motor bus or any self-propelled vehicle not operated or driven upon fixed rails or tracks or in the air or on water.

(b) The term "vehicle" means and includes every device in, upon, or by which any person or property is, or may be, transported or drawn, excepting devices moved by human or animal power, when not used upon fixed rails or tracks, or in the air or on water.

(c) The term "automobile" means and includes every motor vehicle constructed and used solely for the transportation of persons for purposes other than for hire or compensation.

(d) The term "motorcycle" means and includes every motor vehicle designed to travel on not more than three wheels.

(e) The term "truck" means and includes every motor vehicle constructed or used for the transportation of property not falling within the definition of truck-tractor, trailer or semitrailer, as herein defined.

(f) The term "truck-tractor" means and includes every motor vehicle of the truck type designed to draw or support the front end of a semitrailer.

(g) The term "trailer" means and includes any vehicle designed to be drawn by a truck, tractor or a truck-tractor, but supported upon its own wheels.

(h) The term "semitrailer" means and includes any vehicle designed to be attached to, and having its front end supported by a truck, tractor, or truck-tractor.

(i) The term "motor bus" means and includes every motor vehicle constructed so as to carry persons, and which is used or rented to carry persons for compensation.

(j) The term "manufactured home" means ~~and includes every vehicle defined as a manufactured home in Section 22.1 of Title 47 of the Oklahoma Statutes~~ a residential dwelling built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq., and rules promulgated pursuant thereto and the rules promulgated by the Oklahoma Used Motor Vehicle and Parts Commission pursuant to Section 582 of Title 47 of the Oklahoma Statutes.

(k) The term "farm tractor" means and includes any vehicle of tractor type owned and operated by the purchaser and used exclusively for agricultural purposes.

(l) The terms "legal ownership" and "legally owned" mean the right to possession, whether acquired by purchase, barter, exchange, assignment, gift, operation of law, or in any other manner.

(m) The term "person" means and includes natural persons, individuals, partnerships, firms, associations, limited liability companies, corporations, estates, trustees, business trusts, syndicates, this state, any county, city, municipality, school district or other political subdivision of the state, or any corporation or combination acting as a unit or any receiver appointed by any state or federal court; and the use of the singular number shall include the plural number.

(n) The term "Tax Commission" means the Oklahoma Tax Commission.

SECTION 9. This act shall become effective July 1, 2000.

SECTION 10. 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 House of Representatives the 24th day of April, 2000.

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Speaker of the House of  
Representatives

Passed the Senate the 13th day of April, 2000.

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President of the Senate