STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 87 By: Helton

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 1991, Section 582, as last amended by Section 1, Chapter 212, O.S.L. 1997 (47 O.S. Supp. 1998, Section 582), which relates to the Used Motor Vehicle and Parts Commission; deleting certain condition for entering into certain mutual agreement relating to dispute resolution; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 582, as last amended by Section 1, Chapter 212, O.S.L. 1997 (47 O.S. Supp. 1998, 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 member from each of the six congressional districts of this state, two members to be selected from the state at large, and a chair to be selected from the state at large, all to be appointed by the Governor, by and with the advice and consent of the Senate. Each of the Commissioners appointed 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 shall be residents in good faith of the state. Each member shall be of good moral character and each shall have been actually engaged in the manufacture, distribution or sale of motor vehicles or manufactured homes, or 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. There shall

not be fewer than four members engaged in the 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. 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, the term of office of each member of the Commission shall be for six (6) years. Except for the term of office of the two 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 event of death, resignation, 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.

2. The Commission shall meet at Oklahoma City and complete its organization immediately after the entire membership has been appointed and has qualified. 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. 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. 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 the salary and define and prescribe the duties of the Executive Director. 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. 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. The Commission shall maintain its office and transact its business in Oklahoma City, and is authorized to adopt and use a seal.

E. 1. 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 to make and enforce all reasonable rules and to adopt and prescribe all forms necessary to accomplish said purpose. 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.

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. license used motor vehicle dealers, used motor vehicle salesmen, wholesale used motor vehicle dealers, and manufactured home dealers,

b. inspect used motor vehicle dealer and manufactured home 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 business sign, a listed and usable telephone number, a restroom, and a sales office,

c. 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. 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. 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. 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 and 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 2. It being immediately necessary for the preservation of the public peace, health, and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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