

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 325

By: Milacek of the Senate

and

Piatt and Liotta of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 581, which relates to manufactured homes; modifying definition of manufactured home dealer; 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. 2001, Section 581, is amended to read as follows:

Section 581. As used in Section 581 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. "Factory" means a manufacturer, distributor, factory branch, distributor branch, factory representative or distributor representative, which manufactures or distributes vehicle products;
5. "Manufactured home" means a 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;

6. a. "Manufactured home 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, 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. "Manufactured home dealer" shall include a manufactured home auction. A manufactured home auction shall mean any person selling more than twenty-five manufactured homes in an auction or liquidation format. Only licensed manufactured home dealers shall be authorized to purchase manufactured homes at such auctions.

b. "Manufactured home dealer" shall not include any person 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 shall be considered a manufactured home dealer as to any manufactured home purchased or acquired by the person

for purposes other than resale; provided, that the restriction set forth in this sentence shall not prevent an otherwise qualified person from utilizing a single manufactured home as a sales office;

7. "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;

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

9. "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.;

10. "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;

11. "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;

12. "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;

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

14. "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;

15. 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;

16. "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. The term "used motor vehicle salesperson" 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 salesperson's license; and

17. "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. This act shall become effective June 16, 2003.

SECTION 3. 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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