

**EHB 2597**

**THE STATE SENATE**  
**Wednesday, March 29, 2006**

**ENGROSSED**

**House Bill No. 2597**

**As Amended**

ENGROSSED HOUSE BILL NO. 2597 - By: MILLER (Doug) of the House and LEFTWICH of the Senate.

**[ motor vehicles - certain type of rules - effective date - emergency ]**

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 582, as last amended by Section 2, Chapter 298, O.S.L. 2005 (47 O.S. Supp. 2005, 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 ten (10) members who shall be selected as follows:

1. One member shall be appointed from each congressional district and any remaining members, including the chair, shall be appointed from the state at large. However, when congressional districts are redrawn, each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year

1 in which such modification becomes effective shall be from any  
2 redrawn districts which are not represented by a board member until  
3 such time as each of the modified congressional districts are  
4 represented by a board member; provided, the chair shall be  
5 appointed at large without regard to congressional district  
6 representation on the board;

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

9 3. a. each of the members appointed from a congressional  
10 district shall, at the time of appointment, be a  
11 resident in good faith of the congressional district  
12 from which appointed, and

13 b. each of the members appointed from the state at large  
14 shall, at the time of appointment and during the  
15 period of service, be residents in good faith of the  
16 state;

17 4. Each member shall be of good moral character and, for the  
18 ten-year period immediately preceding appointment, each of the used  
19 motor vehicle dealer representatives shall have been licensed for  
20 and actually engaged in the distribution or sale of used motor  
21 vehicles; each of the dismantler representatives shall have actually  
22 been licensed for and engaged in the principal business of  
23 dismantling or disassembling motor vehicles for the purpose of

1 selling the parts thereof; and the manufactured housing  
2 representative shall have been licensed for and actually engaged in  
3 the principal business of selling manufactured homes; and

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

15 B. 1. The term of the chair shall be coterminous with that of  
16 the Governor making the appointment, and until a successor is  
17 appointed and is qualified.

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

20 a. the Commission shall determine and certify the trade  
21 associations of manufactured home dealers that  
22 represent ten percent (10%) or more of the number of  
23 licensed manufactured home dealers in the state and

1 shall certify each such association to the Governor.  
2 The Governor shall request a minimum of ten names from  
3 each such association and shall select one member from  
4 the manufactured home industry from the names  
5 provided,  
6 b. each member actively serving July 1, 2000, who was  
7 appointed on or before June 30, 2000, shall remain and  
8 fulfill the term of his or her membership as set forth  
9 at the appointment,  
10 c. except for the chair, the term of office of each  
11 member of the Commission shall be for six (6) years,  
12 d. except for the chair and the at-large members, the  
13 term of office of any member will automatically expire  
14 if the member moves out of the congressional district  
15 from which appointed; however, if the congressional  
16 districts are modified each member shall complete the  
17 current term of office as provided in this section,  
18 e. in event of death, resignation, or removal of any  
19 person serving on the Commission, the vacancy shall be  
20 filled by appointment as aforesaid for the unexpired  
21 portion of the term,  
22 f. except for the chair, when the term of a member  
23 automatically expires, the vacancy shall be filled by

1 appointment of a qualified successor for a term of six  
2 (6) years as aforesaid, except that the member shall  
3 serve until a successor is appointed and qualified.

4 3. The chair and each member of the Commission shall take and  
5 subscribe to the oath of office required of public officers.

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

14 D. 1. a. The Commission shall appoint a qualified person to  
15 serve as Executive Director who shall have had  
16 sufficient management and organizational experience in  
17 the automotive industry to direct the functions of the  
18 Commission.

19 b. The Executive Director shall be appointed for a term  
20 of six (6) years, and shall not be subject to  
21 dismissal or removal without cause.

22 c. The Commission shall fix the salary and define and  
23 prescribe the duties of the Executive Director.

1           d. The Executive Director shall be in charge of the  
2           Commission's office, shall devote such time as  
3           necessary to fulfill the duties thereof, and, before  
4           entering upon these duties, shall take and subscribe  
5           to the oath of office.

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

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

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

21         b. The Commission shall promulgate rules for the  
22         licensing of manufactured home installers and the  
23         installation of mobile and manufactured homes.

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

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

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

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

18 a. to license used motor vehicle dealers, used motor  
19 vehicle salespersons, wholesale used motor vehicle  
20 dealers, dismantlers, manufactured home dealers,  
21 manufactured home manufacturers, and manufactured home  
22 installers,

- 1           b.    to inspect used motor vehicle dealer, dismantler and  
2                    manufactured home dealer locations, and manufactured  
3                    home manufacturers' factories or assembly sites to  
4                    ensure that they are in an approved location, meet  
5                    local zoning or other municipal requirements, and have  
6                    sufficient facilities which shall include, but not be  
7                    limited to, for retail businesses, a business sign, a  
8                    listed and usable telephone number, a restroom, and a  
9                    sales office,
- 10           c.   to inspect wholesale used motor vehicle dealer  
11                    locations to ensure that they are in an approved  
12                    location, meet local zoning or other municipal  
13                    requirements, and have sufficient facilities which  
14                    shall include, but not be limited to, a listed and  
15                    usable telephone number in the dealer's name and a  
16                    business office where records of the business are  
17                    kept,
- 18           d.   to require all dealer sales to have a condition of  
19                    sale such as a warranty disclaimer, implied or written  
20                    warranty or a service contract approved by the  
21                    Commission,

1 e. to work with consumers and dealers to hear complaints  
2 on used vehicles and manufactured homes, including  
3 installation, and  
4 f. to serve as a dispute resolution panel for binding  
5 arbitration in accordance with Section 801 et seq. of  
6 Title 15 of the Oklahoma Statutes in contract  
7 controversies between licensed used motor vehicle  
8 dealers, dismantlers and manufactured housing dealers,  
9 manufactured home dealers, installers, and  
10 manufacturers and their consumers when, by mutual  
11 written agreement executed after the dispute between  
12 the parties has arisen, both parties have agreed to  
13 use the Commission as their arbitration panel for  
14 contract disputes.

15 F. 1. All fees and charges collected under the provisions of  
16 Section 581 et seq. of this title shall be deposited by the  
17 Executive Director in the State Treasury in accordance with the  
18 depository laws of this state in a special fund to be known as the  
19 "Oklahoma Used Motor Vehicle and Parts Commission Fund", which fund  
20 is hereby created. Except as hereinafter provided, the monies in  
21 the fund shall be used by the Commission for the purpose of carrying  
22 out and enforcing the provisions of Section 581 et seq. of this  
23 title. Expenditures from the fund shall be warrants issued by the

1 State Treasurer against claims submitted by the Commission to the  
2 Director of State Finance for approval.

3 2. At the close of each fiscal year, the Commission shall file  
4 with the Governor and the State Auditor and Inspector a true and  
5 correct report of all fees and charges collected and received by it  
6 during the preceding fiscal year and shall at the same time pay into  
7 the General Revenue Fund of the state a sum equal to ten percent  
8 (10%) of the gross fees and charges so collected and received.

9 3. All expenses incurred by the Commission in carrying out the  
10 provisions of Section 581 et seq. of this title including, but not  
11 limited to, per diem, wages, salaries, rent, postage, advertising,  
12 supplies, bond premiums, travel and subsistence for the  
13 Commissioners, the Executive Director, employees, and legal counsel,  
14 and printing and utilities, shall be a proper charge against the  
15 fund, exclusive of the portion thereof to be paid into the General  
16 Revenue Fund as above set out; provided, that in no event shall  
17 liability ever accrue hereunder against the state in any sum  
18 whatsoever, or against the Oklahoma Used Motor Vehicle and Parts  
19 Commission Fund, in excess of the ninety percent (90%) of the fees  
20 and charges deposited therein.

21 SECTION 2. This act shall become effective July 1, 2006.

22 SECTION 3. It being immediately necessary for the preservation  
23 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.  
3 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 3-27-06  
4 - DO PASS, As Amended.