

3 Senate Bill No. 1701
4 As Amended

5 SENATE BILL NO. 1701 - By: SHURDEN of the Senate and CASE of the
6 House.

7 [motor vehicles - used motor vehicle and parts dealers -
8 effective date]

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

10 SECTION 1. AMENDATORY 47 O.S. 2001, Section 583, as
11 amended by Section 3, Chapter 298, O.S.L. 2005 (47 O.S. Supp. 2005,
12 Section 583), is amended to read as follows:

13 Section 583. A. 1. It shall be unlawful and constitute a
14 misdemeanor for any person to engage in business as, or serve in the
15 capacity of, or act as a used motor vehicle dealer, used motor
16 vehicle salesperson, wholesale used motor vehicle dealer,
17 manufactured home dealer, manufactured home salesperson,
18 manufactured home installer, or manufactured home manufacturer
19 selling directly to a licensed manufactured home dealer in this
20 state without first obtaining a license or following other
21 requirements therefor as provided in this section.

22 2. a. Any person engaging, acting, or serving in the
23 capacity of a used motor vehicle dealer and/or a used
24 motor vehicle salesperson, a manufactured home dealer,

1 manufactured home salesperson, a manufactured home
2 installer, or a manufactured home manufacturer, or
3 having more than one place where any such business, or
4 combination of businesses, is carried on or conducted
5 shall be required to obtain and hold a current license
6 for each such business, in which engaged.

7 b. A used motor vehicle dealer's license shall authorize
8 one person to sell without a salesperson's license in
9 the event such person shall be the owner of a
10 proprietorship, or the person designated as principal
11 in the dealer's franchise or the managing officer or
12 one partner if no principal person is named in the
13 franchise.

14 c. If after a hearing in accordance with the provisions
15 of Section 585 of this title, the Oklahoma Used Motor
16 Vehicle and Parts Commission shall find any person
17 installing a mobile or manufactured home to be in
18 violation of any of the provisions of this act, such
19 person may be subject to an administrative fine of not
20 more than Five Hundred Dollars (\$500.00) for each
21 violation. Each day a person is in violation of this
22 act may constitute a separate violation. The maximum
23 fine shall not exceed One Thousand Dollars

1 (\$1,000.00). All administrative fines collected
2 pursuant to the provisions of this subparagraph shall
3 be deposited in the fund established in Section 582 of
4 this title. Administrative fines imposed pursuant to
5 this subparagraph may be enforceable in the district
6 courts of this state.

7 d. A salesperson's license may not be issued under a
8 wholesale used motor vehicle dealer's license.

9 3. Any person except persons penalized by administrative fine
10 violating the provisions of this section shall, upon conviction, be
11 fined not to exceed Five Hundred Dollars (\$500.00). A second or
12 subsequent conviction shall be punished by a fine not to exceed One
13 Thousand Dollars (\$1,000.00); provided that each day such unlicensed
14 person violates this section shall constitute a separate offense,
15 and any vehicle involved in a violation of this subsection shall be
16 considered a separate offense.

17 B. 1. Applications for licenses required to be obtained under
18 provisions of this act, Section 581 et seq. of this title, which
19 creates the Oklahoma Used Motor Vehicle and Parts Commission shall
20 be verified by the oath or affirmation of the applicant and shall be
21 on forms prescribed by the Commission and furnished to the
22 applicants, and shall contain such information as the Commission
23 deems necessary to enable it to fully determine the qualifications

1 and eligibility of the several applicants to receive the license or
2 licenses applied for. The Commission shall require in the
3 application, or otherwise, information relating to:

- 4 a. the applicant's financial standing,
- 5 b. the applicant's business integrity,
- 6 c. whether the applicant has an established place of
7 business and is engaged in the pursuit, avocation, or
8 business for which a license, or licenses, is applied
9 for,
- 10 d. whether the applicant is able to properly conduct the
11 business for which a license, or licenses, is applied
12 for, and
- 13 e. such other pertinent information consistent with the
14 safeguarding of the public interest and the public
15 welfare.

16 2. All applications for license or licenses shall be
17 accompanied by the appropriate fee or fees in accordance with the
18 schedule hereinafter provided. In the event any application is
19 denied and the license applied for is not issued, the entire license
20 fee shall be returned to the applicant.

21 3. All bonds and licenses issued under the provisions of this
22 act shall expire on December 31, following the date of issue and
23 shall be nontransferable. All applications for renewal of licenses

1 should be submitted by November 1 of each year, and licenses shall
2 be issued by January 10. If applications have not been made for
3 renewal of licenses, such licenses shall expire on December 31 and
4 it shall be illegal for any person to represent himself or herself
5 and act as a dealer thereafter. Tag agents shall be notified not to
6 accept dealers' titles until such time as licenses have been issued.

7 4. A used motor vehicle salesperson's license shall permit the
8 licensee to engage in the activities of a used motor vehicle
9 salesperson. Salespersons shall not be allowed to sell vehicles
10 unless applications, bonds, and fees are on file with the Commission
11 and the motor vehicle salesperson's or temporary salesperson's
12 license issued. A temporary salesperson's license, salesperson's
13 renewal or reissue of salesperson's license shall be deemed to have
14 been issued when the appropriate application, bond, and fee have
15 been properly addressed and mailed to the Commission.

16 Dealers' payrolls and other evidence will be checked to
17 ascertain that all salespersons for such dealers are licensed.

18 C. The schedule of license fees to be charged and received by
19 the Commission for the licenses issued hereunder shall be as
20 follows:

21 1. For each used motor vehicle dealer's license and each
22 wholesale used motor vehicle dealer's license, Two Hundred Dollars
23 (\$200.00). If a used motor vehicle dealer or a wholesale used motor

1 vehicle dealer has once been licensed by the Commission in the
2 classification for which he or she applies for a renewal of the
3 license, the fee for each subsequent renewal shall be One Hundred
4 Dollars (\$100.00); provided, if an applicant holds a license to
5 conduct business as an automotive dismantler and parts recycler
6 issued pursuant to Section 591.1 et seq. of this title, the initial
7 fee shall be One Hundred Dollars (\$100.00) and the renewal fee shall
8 be Seventy-five Dollars (\$75.00). If an applicant is applying
9 simultaneously for a license under this paragraph and a license
10 under paragraph 1 of Section 591.5 of this title, the initial
11 application fee shall be One Hundred Fifty Dollars (\$150.00);

12 2. For a used motor vehicle dealer's license, for each place of
13 business in addition to the principal place of business, Fifty
14 Dollars (\$50.00);

15 3. For each used motor vehicle salesperson's license, Ten
16 Dollars (\$10.00);

17 4. For each holder who possesses a valid new motor vehicle
18 dealer's license from the Oklahoma Motor Vehicle Commission, One
19 Hundred Dollars (\$100.00) shall be the initial fee for a used motor
20 vehicle license and the fee for each subsequent renewal shall be One
21 Hundred Dollars (\$100.00);

- 1 5. a. For each manufactured home dealer's license, and for
2 each place of business in addition to the principal
3 place of business, Two Hundred Dollars (\$200.00).
4 b. For each renewal of a manufactured home dealer's
5 license, and renewal for each place of business in
6 addition to the principal place of business, One
7 Hundred Dollars (\$100.00);
8 6. a. For each manufactured home installer's license, Two
9 Hundred Dollars (\$200.00).
10 b. For each renewal of a manufactured home installer's
11 license, Two Hundred Dollars (\$200.00);
12 7. a. For each manufactured home manufacturer selling
13 directly to a licensed manufactured home dealer in
14 this state, Seven Hundred Fifty Dollars (\$750.00).
15 b. For each renewal of a manufactured home manufacturer's
16 license, Seven Hundred Fifty Dollars (\$750.00); and
17 8. For each manufactured home salesperson's license or renewal
18 thereof, Ten Dollars (\$10.00).
19 D. 1. The license issued to each used motor vehicle dealer,
20 each wholesale used motor vehicle dealer, each manufactured home
21 dealer, each manufactured home installer, and each manufactured home
22 manufacturer shall specify the location of the place of business.
23 If the business location is changed, the Oklahoma Used Motor Vehicle

1 and Parts Commission shall be notified immediately of the change and
2 the Commission may endorse the change of location on the license
3 without charge. The license of each licensee shall be posted in a
4 conspicuous place in the place or places of business of the
5 licensee.

6 2. Every used motor vehicle salesperson shall have the license
7 upon his or her person when engaged in business, and shall display
8 same upon request. The name of the employer of the salesperson
9 shall be stated on the license and if there is a change of employer,
10 the license holder shall immediately mail the license to the
11 Commission for its endorsement of the change thereon. There shall
12 be no charge for endorsement of change of employer on the license or
13 penalty for not having a license upon his or her person.

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

21 E. 1. a. Each applicant for a used motor vehicle dealer's
22 license shall procure and file with the Commission a
23 good and sufficient bond in the amount of Fifteen

1 Thousand Dollars (\$15,000.00). Each new applicant for
2 a used motor vehicle dealer's license for the purpose
3 of conducting a used motor vehicle auction shall
4 procure and file with the Commission a good and
5 sufficient bond in the amount of Fifty Thousand
6 Dollars (\$50,000.00). An applicant who intends to
7 conduct a used motor vehicle auction who provides
8 proof that the applicant has check and title insurance
9 in an amount not less than Fifty Thousand Dollars
10 (\$50,000.00) shall only be required to have a bond in
11 the amount of Twenty-five Thousand Dollars
12 (\$25,000.00).

13 b. Each new applicant for a used motor vehicle dealer
14 license for the purpose of conducting a used motor
15 vehicle business which will consist primarily of non-
16 auction consignment sales which are projected to equal
17 Five Hundred Thousand Dollars (\$500,000.00) or more in
18 gross annual sales shall procure and file with the
19 Commission a good and sufficient bond in the amount of
20 Fifty Thousand Dollars (\$50,000.00). The Commission
21 shall prescribe by rule the method of operation of the
22 non-auction consignment dealer in order to properly
23 protect the interests of all parties to the

1 transaction and to provide sanctions against dealers
2 who fail to comply with the rules.

3 c. Each applicant for a wholesale used motor vehicle
4 dealer's license shall procure and file with the
5 Commission a good and sufficient bond in the amount of
6 Twenty-five Thousand Dollars (\$25,000.00).

7 d. Any used motor vehicle dealer who, for the purpose of
8 being a rebuilder, applies for a rebuilder
9 certificate, as provided in Section 591.5 of this
10 title, shall procure and file with the Commission a
11 good and sufficient bond in the amount of Fifteen
12 Thousand Dollars (\$15,000.00). If a used motor
13 vehicle dealer applies for a renewal of a rebuilder
14 certificate, and does not have a bond filed with the
15 Commission, the used motor vehicle dealer shall file
16 with the Commission a good and sufficient bond in the
17 amount of Fifteen Thousand Dollars (\$15,000.00).

18 ~~d.~~

19 e. Each applicant for a manufactured home dealer's
20 license shall procure and file with the Commission a
21 good and sufficient bond in the amount of Thirty
22 Thousand Dollars (\$30,000.00).

23 ~~e.~~

1 2. If a motor vehicle dealer has a valid license issued by the
2 Oklahoma Motor Vehicle Commission, then the bond as required by this
3 subsection shall be waived.

4 3. Each applicant for a used motor vehicle salesperson's
5 license shall procure and file with the Commission a good and
6 sufficient bond in the amount of One Thousand Dollars (\$1,000.00).
7 The bond shall be approved as to form by the Attorney General and
8 conditioned that the applicant shall perform duties as a used motor
9 vehicle salesperson without fraud or fraudulent representation and
10 without violating any provisions of this act.

11 4. The bonds as required by this section shall be maintained
12 throughout the period of licensure. Should the bond be canceled for
13 any reason, the license shall be revoked as of the date of
14 cancellation unless a new bond is furnished prior to such date.

15 F. Any used motor vehicle dealer or wholesale used motor
16 vehicle dealer is required to furnish and keep in force a minimum of
17 Twenty-five Thousand Dollars (\$25,000.00) of single liability
18 insurance coverage on all vehicles offered for sale or used in any
19 other capacity in demonstrating or utilizing the streets and
20 roadways in accordance with the financial responsibility laws of
21 this state.

22 G. Any manufactured home dealer is required to furnish and keep
23 in force a minimum of One Hundred Thousand Dollars (\$100,000.00) of

1 garage liability or general liability with products and completed
2 operations insurance coverage.

3 H. Any manufactured home installer is required to furnish and
4 keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00)
5 of general liability with products and completed operations
6 insurance coverage.

7 SECTION 2. This act shall become effective November 1, 2006.

8 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 2-13-06
9 - DO PASS, As Amended and Coauthored.