

3 Senate Bill No. 345
4 As Amended

5 SENATE BILL NO. 345 - By: SHURDEN of the Senate and TURNER of the
6 House.

7 [motor vehicles - Oklahoma Used Motor Vehicle and Parts
8 Commission - number of appointees - fees -
9 emergency]

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

11 SECTION 1. AMENDATORY 47 O.S. 2001, Section 582, as last
12 amended by Section 1, Chapter 229, O.S.L. 2003 (47 O.S. Supp. 2004,
13 Section 582), is amended to read as follows:

14 Section 582. A. There is hereby created the Oklahoma Used
15 Motor Vehicle and Parts Commission, to be composed of ~~ten (10)~~
16 twelve (12) members who shall be selected as follows:

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

1 ~~redrawn districts which are not represented by a board member until~~
2 ~~such time as each of the modified congressional districts are~~
3 ~~represented by a board member; provided, the chair shall be~~
4 ~~appointed at large without regard to congressional district~~
5 ~~representation on the board~~ Six members shall be licensed used motor
6 vehicle dealers, three members shall be licensed automotive
7 dismantlers and parts recyclers, one member shall be a licensed
8 manufactured home dealer, and two members shall be otherwise
9 involved in the used vehicle industry;

10 2. Members serving on the Commission prior to the effective
11 date of this act, may be eligible to serve if reappointed by the
12 Governor and if such members meet the requirements of this section.
13 The Governor shall designate staggered terms of office for members
14 appointed pursuant to this section; provided, however, no term shall
15 exceed six (6) years;

16 3. All members shall be appointed by the Governor, by and with
17 the advice and consent of the Senate;

18 ~~3.~~

19 4. a. ~~each~~ Each of the members appointed ~~from a~~
20 ~~congressional district shall, at the time of~~
21 ~~appointment, be a resident in good faith of the~~
22 ~~congressional district from which appointed, and~~

1 ~~b. each of the members appointed from the state at large~~
2 shall, at the time of appointment and during the
3 period of service, be ~~residents in good faith~~ a
4 resident of the state;

5 ~~4.~~ 5. Each member shall be of good moral character and, for the
6 ten-year period immediately preceding appointment, each of the used
7 motor vehicle dealer representatives shall have been licensed for
8 and actually engaged in the distribution or sale of used motor
9 vehicles; each of the dismantler representatives shall have actually
10 been licensed for and engaged in the principal business of
11 dismantling or disassembling motor vehicles for the purpose of
12 selling the parts thereof; and the manufactured housing
13 representative shall have been licensed for and actually engaged in
14 the principal business of selling manufactured homes; and

15 ~~5. Eight~~ 6. Ten members plus the chair shall be engaged in the
16 used motor vehicle industry or the automotive dismantler industry.
17 There shall not be fewer than five members engaged in the principal
18 business of the sale of used motor vehicles and there shall not be
19 fewer than two members engaged in the principal business of
20 dismantling or disassembling motor vehicles for the purpose of
21 selling the parts thereof. ~~One of the at-large members~~ member shall
22 be engaged in the principal business of selling manufactured homes
23 as a licensed manufactured home dealer. Being engaged in one or

1 more of such pursuits shall not disqualify a person otherwise
2 qualified from serving on the Commission.

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

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

8 a. the Commission shall determine and certify the trade
9 associations of manufactured home dealers that
10 represent ten percent (10%) or more of the number of
11 licensed manufactured home dealers in the state and
12 shall certify each such association to the Governor.
13 The Governor shall request a minimum of ten names from
14 each such association and shall select one member from
15 the manufactured home industry from the names
16 provided,

17 ~~b. each member actively serving July 1, 2000, who was~~
18 ~~appointed on or before June 30, 2000, shall remain and~~
19 ~~fulfill the term of his or her membership as set forth~~
20 ~~at the appointment,~~

21 ~~e-~~ except for the chair, the term of office of each
22 member of the Commission shall be for six (6) years,

23 ~~d-~~ ~~except for the chair and the at-large members,~~

1 c. the term of office of any member will automatically
2 expire if the member ~~moves out of the congressional~~
3 ~~district from which appointed; however, if the~~
4 ~~congressional districts are modified each member shall~~
5 ~~complete the current term of office as provided in~~
6 ~~this section~~ no longer meets the requirements of this
7 section,

8 ~~e.~~ d. in event of death, resignation, or removal of any
9 person serving on the Commission, the vacancy shall be
10 filled by appointment as aforesaid for the unexpired
11 portion of the term, and

12 ~~f.~~ e. except for the chair, when the term of a member
13 automatically expires, the vacancy shall be filled by
14 appointment of a qualified successor for a term of six
15 (6) years as aforesaid, except that the member shall
16 serve until a successor is appointed and qualified.

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

19 C. The chair and members of the Commission shall receive Thirty
20 Dollars (\$30.00) for each and every day actually and necessarily
21 spent in attending the meetings of the Commission, and shall be
22 reimbursed for subsistence and traveling expenses incurred in the
23 performance of their duties hereunder as provided by the State

1 Travel Reimbursement Act; provided that such meeting payments shall
2 not exceed the sum of Six Hundred Dollars (\$600.00) per annum to any
3 one person.

4 D. 1. a. The Commission shall appoint a qualified person to
5 serve as Executive Director who shall have had
6 sufficient management and organizational experience in
7 the automotive industry to direct the functions of the
8 Commission.

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

12 c. The Commission shall fix the salary and define and
13 prescribe the duties of the Executive Director.

14 d. The Executive Director shall be in charge of the
15 Commission's office, shall devote such time as
16 necessary to fulfill the duties thereof, and, before
17 entering upon these duties, shall take and subscribe
18 to the oath of office.

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

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

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

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

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

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

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

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

8 a. to license used motor vehicle dealers, used motor
9 vehicle salespersons, wholesale used motor vehicle
10 dealers, dismantlers, manufactured home dealers,
11 manufactured home manufacturers, and manufactured home
12 installers,

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

22 c. to inspect wholesale used motor vehicle dealer
23 locations to ensure that they are in an approved

1 location, meet local zoning or other municipal
2 requirements, and have sufficient facilities which
3 shall include, but not be limited to, a listed and
4 usable telephone number in the dealer's name and a
5 business office where records of the business are
6 kept,
7 d. to require all dealer sales to have a condition of
8 sale such as a warranty disclaimer, implied or written
9 warranty or a service contract approved by the
10 Commission,
11 e. to work with consumers and dealers to hear complaints
12 on used vehicles and parts and establish a Used Car
13 Consumer Action Panel to hear complaints on a
14 condition of sale, implied and written warranties, and
15 service complaints, and
16 f. to serve as a dispute resolution panel for binding
17 arbitration in accordance with Section 801 et seq. of
18 Title 15 of the Oklahoma Statutes in contract
19 controversies between licensed used motor vehicle
20 dealers, dismantlers and manufactured housing dealers
21 and their consumers when, by mutual written agreement
22 executed after the dispute between the parties has

1 arisen, both parties have agreed to use the Commission
2 as their arbitration panel for contract disputes.

3 F. 1. All fees and charges collected under the provisions of
4 Section 581 et seq. of this title shall be deposited by the
5 Executive Director in the State Treasury in accordance with the
6 depository laws of this state in a special fund to be known as the
7 "Oklahoma Used Motor Vehicle and Parts Commission Fund", which fund
8 is hereby created. Except as hereinafter provided, the monies in
9 the fund shall be used by the Commission for the purpose of carrying
10 out and enforcing the provisions of Section 581 et seq. of this
11 title. Expenditures from the fund shall be warrants issued by the
12 State Treasurer against claims submitted by the Commission to the
13 Director of State Finance for approval.

14 2. At the close of each fiscal year, the Commission shall file
15 with the Governor and the State Auditor and Inspector a true and
16 correct report of all fees and charges collected and received by it
17 during the preceding fiscal year and shall at the same time pay into
18 the General Revenue Fund of the state a sum equal to ten percent
19 (10%) of the gross fees and charges so collected and received.

20 3. All expenses incurred by the Commission in carrying out the
21 provisions of Section 581 et seq. of this title including, but not
22 limited to, per diem, wages, salaries, rent, postage, advertising,
23 supplies, bond premiums, travel and subsistence for the

1 Commissioners, the Executive Director, employees, and legal counsel,
2 and printing and utilities, shall be a proper charge against the
3 fund, exclusive of the portion thereof to be paid into the General
4 Revenue Fund as above set out; provided, that in no event shall
5 liability ever accrue hereunder against the state in any sum
6 whatsoever, or against the Oklahoma Used Motor Vehicle and Parts
7 Commission Fund, in excess of the ninety percent (90%) of the fees
8 and charges deposited therein.

9 SECTION 2. AMENDATORY 47 O.S. 2001, Section 591.5, is
10 amended to read as follows:

11 Section 591.5 An application for a license shall be accompanied
12 by the following fees:

13 1. Two Hundred Dollars (\$200.00) for an initial license for an
14 applicant's established principal place of business, One Hundred
15 Dollars (\$100.00) for a renewal license for an applicant's
16 established place of business and Fifty dollars (\$50.00) for each
17 additional place of business, if any, to which the application
18 pertains; provided, if an applicant holds a used motor vehicle
19 dealer's license issued pursuant to paragraph 1 of subsection C of
20 Section 583 of this title, for an applicant's established place of
21 business the initial license fee shall be One Hundred Dollars
22 (\$100.00) and the renewal fee shall be Seventy-five Dollars
23 (\$75.00); provided further, if an applicant is applying

1 simultaneously for a license under this paragraph and under
2 paragraph 1 of subsection C of Section 583 of this title, the
3 initial application fee shall be One Hundred Fifty Dollars
4 (\$150.00). If an applicant for or holder of a used motor vehicle
5 dealer's license also applies for a rebuilder certificate, the
6 initial fee for the certificate shall be ~~Fifty Dollars (\$50.00)~~ Two
7 Hundred Dollars (\$200.00) and the renewal fee shall be ~~Twenty-five~~
8 ~~Dollars (\$25.00)~~ One Hundred Dollars (\$100.00). The Oklahoma Used
9 Motor Vehicle and Parts Commission shall issue a buyer's
10 identification card (B.I.D.) with each certificate issued. License
11 fees shall be returnable only in the event that the application is
12 denied by the Commission.

13 2. Any change which renders no longer accurate any information
14 contained in an application for a license filed with the Commission
15 shall be amended within thirty (30) days after the occurrence of the
16 change on a form prescribed by the Commission by rule, accompanied
17 by a fee of Two Dollars (\$2.00) plus Five Dollars (\$5.00) for each
18 additional place of business, if any. If an amended application is
19 made after July 1 of any year, the filing fee shall be Two Dollars
20 (\$2.00) plus Three Dollars (\$3.00) for each additional place of
21 business, if any.

1 3. Every license issued to an automobile dismantler and parts
2 recycler shall expire on December 31 of each year and shall be
3 renewed on or before January 1 of the following year.

4 SECTION 3. This act shall become effective July 1, 2005.

5 SECTION 4. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-23-05 - DO
10 PASS, As Amended and Coauthored.