

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1654

By: Johnson (Mike) of the
Senate

6 and

7 Thompson of the House

8
9 COMMITTEE SUBSTITUTE

10 (motor vehicles - Oklahoma Motor Vehicle Commission -
11 effective date)

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16 SECTION 1. AMENDATORY 47 O.S. 2001, Section 562, as last
17 amended by Section 2, Chapter 213, O.S.L. 2006 (47 O.S. Supp. 2007,
18 Section 562), is amended to read as follows:

19 Section 562. The following words, terms and phrases, when used
20 in Sections 561 through 567, 572, 578.1, 579 and 579.1 of this
21 title, shall have the meanings respectively ascribed to them in this
22 section, except where the context clearly indicates a different
23 meaning:

1 1. "Motor vehicle" means any motor-driven vehicle required to
2 be registered under the Oklahoma Vehicle License and Registration
3 Act except all-terrain vehicles and motorcycles used exclusively for
4 off-road use;

5 2. "New motor vehicle dealer" means any person, firm,
6 association, corporation or trust not excluded by this paragraph who
7 sells, offers for sale, advertises to sell, leases or displays new,
8 ~~unused or remanufactured~~ motor vehicles and holds a bona fide
9 contract or franchise in effect with a manufacturer, ~~remanufacturer~~
10 or distributor authorized by the manufacturer ~~or remanufacturer~~ to
11 make predelivery preparation of such vehicles sold to purchasers and
12 to perform post-sale work pursuant to the manufacturer's,
13 ~~remanufacturer's~~ or distributor's warranty. As used herein,
14 "authorized predelivery preparation" means the rendition by the
15 dealer of services and safety adjustments on each new, ~~unused or~~
16 ~~remanufactured~~ motor vehicle in accordance with the procedure and
17 safety standards required by the manufacturer ~~or remanufacturer~~ of
18 the vehicle to be made before its delivery to the purchaser.

19 "Performance of authorized post-sale work pursuant to the warranty",
20 as used herein, means the rendition of services which are required
21 by the terms of the warranty that stands extended to the vehicle at
22 the time of its sale and are to be made in accordance with the
23 safety standards prescribed by the manufacturer ~~or remanufacturer~~.
24 The term includes premises or facilities at which a person engages

1 only in the repair of motor vehicles if repairs are performed
2 pursuant to the terms of a franchise and motor vehicle
3 manufacturer's ~~or remanufacturer's~~ warranty. However, the term
4 shall not include premises or facilities at which a new motor
5 vehicle dealer or dealers within the area of responsibility of such
6 dealer or dealers as defined in the manufacturer's ~~or~~
7 ~~remanufacturer's~~ franchise agreement of such dealer or dealers
8 performs motor vehicle repairs pursuant to the terms of a franchise
9 and motor vehicle manufacturer's ~~or remanufacturer's~~ warranty. For
10 the purpose of Sections 561 through 567, 572, 578.1, 579 and 579.1
11 of this title, the terms "new motor vehicle dealer" and "new motor
12 vehicle dealership" shall be synonymous. The term "new motor
13 vehicle dealer" does not include:

- 14 a. receivers, trustees, administrators, executors,
15 guardians or other persons appointed by or acting
16 under judgment or order of any court,
- 17 b. public officers while performing or in operation of
18 their duties, or
- 19 c. employees of persons, corporations or associations
20 enumerated in subparagraph a of this paragraph when
21 engaged in the specific performance of their duties as
22 such employees;

23 3. "Motor vehicle salesperson" means any person who, for gain
24 or compensation of any kind, either directly or indirectly,

1 regularly or occasionally, by any form of agreement or arrangement,
2 sells or negotiates for the sale of any new ~~or unused~~ motor vehicle
3 for any new, ~~unused or remanufactured~~ motor vehicle dealer to any
4 one or more third parties;

5 4. "Commission" means the Oklahoma Motor Vehicle Commission;

6 5. "Manufacturer" means any person, firm, association,
7 corporation or trust, resident or nonresident, who manufactures or
8 assembles new and unused motor vehicles or who engages in the
9 fabrication or assembly of motorized vehicles of a type required to
10 be registered in the State of Oklahoma;

11 6. "Distributor" means any person, firm, association,
12 corporation or trust, resident or nonresident, who, being authorized
13 by the original manufacturer, in whole or in part sells or
14 distributes new and unused motor vehicles to motor vehicle dealers,
15 or who maintains distributor representatives;

16 7. "Factory branch" means any branch office maintained by a
17 person, firm, association, corporation or trust who manufactures or
18 assembles motor vehicles for the sale of motor vehicles to
19 distributors, or for the sale of motor vehicles to motor vehicle
20 dealers, or for directing or supervising, in whole or in part, its
21 representatives;

22 8. "Distributor branch" means any branch office similarly
23 maintained by a distributor for the same purposes a factory branch
24 is maintained;

1 9. "Factory representative" means any officer or agent engaged
2 as a representative of a manufacturer of motor vehicles or by a
3 factory branch, for the purpose of making or promoting the sale of
4 its motor vehicles, or for supervising or contacting its dealers or
5 prospective dealers;

6 10. "Distributor representative" means any person, firm,
7 association, corporation or trust and each officer and employee
8 thereof engaged as a representative of a distributor or distributor
9 branch of motor vehicles, for the purpose of making or promoting the
10 sale of its motor vehicles, or for supervising or contacting its
11 dealers or prospective dealers;

12 11. "Franchise" means any contract or agreement between a motor
13 vehicle dealer and a manufacturer of a new motor vehicle or its
14 distributor or factory branch by which the dealer is authorized to
15 engage in the business of selling any specified make or makes of new
16 motor vehicles;

17 12. "New or unused motor vehicle" means a vehicle which is in
18 the possession of the manufacturer or distributor or has been sold
19 only to the holder of a valid selling agreement, franchise or
20 contract, granted by the manufacturer or distributor for the sale of
21 that make of new vehicle so long as the manufacturer's statement of
22 origin has not been assigned to anyone other than a licensed
23 franchised new motor vehicle dealer of the same line-make;

1 13. "Area of responsibility" means the geographical area, as
2 designated by the manufacturer, factory branch, factory
3 representative, distributor, distributor branch or distributor
4 representative, in which the new motor vehicle dealer is held
5 responsible for the promotion and development of sales and rendering
6 of service for the make of motor vehicle for which the motor vehicle
7 dealer holds a franchise or selling agreement;

8 14. "Off premises" means at a location other than the address
9 designated on the new motor vehicle dealer's license;

10 15. "Sponsoring entity" means any person, firm, association,
11 corporation or trust which has control, either permanently or
12 temporarily, over the real property upon which the off-premise sale
13 or display is conducted;

14 ~~16. "Remanufactured vehicle" means a motor vehicle which has~~
15 ~~been assembled by a vehicle remanufacturer using a new body and~~
16 ~~which may include original, reconditioned or remanufactured parts,~~
17 ~~and which is not a salvage, rebuilt or junked vehicle as defined by~~
18 ~~paragraphs 1, 2 and 5, respectively, of subsection A of Section 1105~~
19 ~~of this title;~~

20 ~~17. "Vehicle remanufacturer" means a commercial entity which~~
21 ~~assembles remanufactured vehicles;~~

22 ~~18. "Product" means new motor vehicles and new motor vehicle~~
23 ~~parts;~~

24

1 ~~19.~~ 17. "Service" means motor vehicle warranty repairs
2 including both parts and labor;

3 ~~20.~~ 18. "Lead" means a consumer contact in response to a
4 factory program designed to generate interest in purchasing or
5 leasing a new motor vehicle;

6 ~~21.~~ 19. "Sell or sale" means to sell or lease; and

7 ~~22.~~ 20. "Factory" means a manufacturer, distributor, factory
8 branch, distributor branch, factory representative or distributor
9 representative, which manufactures or distributes vehicle products.

10 SECTION 2. AMENDATORY 47 O.S. 2001, Section 564.1, as
11 amended by Section 2, Chapter 228, O.S.L. 2005 (47 O.S. Supp. 2007,
12 Section 564.1), is amended to read as follows:

13 Section 564.1 Licensing of off-premises displays of new motor
14 vehicles and off-premise sales of new motorized recreational
15 vehicles.

16 A. The Oklahoma Motor Vehicle Commission shall provide for
17 ~~licensing of~~ off-premise displays of new motor vehicles and off-
18 premise sales of new motorized recreational vehicles, by currently
19 licensed new motor vehicle dealers as follows:

20 1. An off-premise event may be held for display purposes only
21 under the following conditions:

22 a. ~~the dealer must obtain permits from the Commission~~
23 ~~stating that~~ the motor vehicles are for display
24 purposes only and not for sale, ~~and the permits shall~~

1 ~~be placed on the motor vehicles in a manner to be~~
2 ~~prescribed by the Commission~~ at the off-premise
3 display event,

- 4 b. no selling activities shall be conducted,
- 5 c. the display is in dealer's factory-approved area of
6 sales and service responsibility;
- 7 d. the dealer must obtain written approval from the
8 manufacturer or distributor, and
- 9 e. ~~the sponsoring entity of the display event~~ dealer is
10 required to obtain a ~~permit~~ approval for the display
11 location from the ~~Commission~~ sponsoring entity; and

12 2. An off-premise event by motorized recreational vehicle
13 dealer or dealers, at which selling activities are conducted, may be
14 held only under the following conditions:

- 15 a. permits for a sales event described in this paragraph
16 shall be obtained from the Commission at the rate of
17 Fifteen Dollars (\$15.00) per vehicle, per event,
- 18 b. the permit shall be for a period not to exceed ten
19 (10) consecutive days,
- 20 c. the sponsoring entity of the sales event shall obtain
21 a license from the Commission at the rate of Two
22 Hundred Dollars (\$200.00) per event,
- 23 d. new motorized recreational vehicle dealers whose
24 factory-approved area of sales and service

1 responsibility includes the event location would be
2 eligible to participate,

3 e. new motorized recreational vehicle dealers must obtain
4 written approval from the manufacturer or distributor,
5 and

6 f. the off-premise sales event shall be conducted within
7 municipal, county, or state-owned or controlled
8 facilities or within the grounds of any county,
9 district, or state fair.

10 B. The Oklahoma Motor Vehicle Commission is authorized to
11 provide a variance to the distance requirements specified in this
12 section, for any off-premise display event if:

13 1. The off-premise display is conducted within municipal,
14 county, or state-owned or controlled facilities or within the
15 grounds of any county, district, or state fair; and

16 2. The request for the variance must be in writing to the
17 Commission no less than thirty (30) days prior to the off-premise
18 display event.

19 SECTION 3. AMENDATORY 47 O.S. 2001, Section 565, as
20 amended by Section 1, Chapter 141, O.S.L. 2005 (47 O.S. Supp. 2007,
21 Section 565), is amended to read as follows:

22 Section 565. A. The Oklahoma Motor Vehicle Commission may deny
23 an application for a license, or revoke or suspend a license or
24 impose a fine not to exceed Ten Thousand Dollars (\$10,000.00)

1 against a manufacturer or distributor or a fine not to exceed One
2 Thousand Dollars (\$1,000.00) against a dealer per occurrence that
3 any provision of Sections 561 through 567, 572, 578.1, 579 and 579.1
4 of this title is violated or for any of the following reasons:

5 1. On satisfactory proof of unfitness of the applicant in any
6 application for any license under the provisions of Section 561 et
7 seq. of this title;

8 2. For any material misstatement made by an applicant in any
9 application for any license under the provisions of Section 561 et
10 seq. of this title;

11 3. For any failure to comply with any provision of Section 561
12 et seq. of this title or any rule promulgated by the Commission
13 under authority vested in it by Section 561 et seq. of this title;

14 4. A change of condition after license is granted resulting in
15 failure to maintain the qualifications for license;

16 5. Being a new motor vehicle dealer or new motor vehicle
17 salesperson who:

18 a. has required a purchaser of a new motor vehicle, as a
19 condition of sale and delivery thereof, to also
20 purchase special features, appliances, accessories or
21 equipment not desired or requested by the purchaser
22 and installed by the dealer,

23

24

- b. uses any false or misleading advertising in connection with business as a new motor vehicle dealer or vehicle salesperson,
- c. has committed any unlawful act which resulted in the revocation of any similar license in another state,
- d. has failed or refused to perform any written agreement with any retail buyer involving the sale of a motor vehicle,
- e. has been convicted of a crime involving moral turpitude,
- f. has committed a fraudulent act in selling, purchasing or otherwise dealing in new motor vehicles or has misrepresented the terms and conditions of a sale, purchase or contract for sale or purchase of a new motor vehicle or any interest therein including an option to purchase such vehicle, or
- g. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;

6. Being a new motor vehicle salesperson who is not employed as such by a licensed new motor vehicle dealer;

7. Being a new motor vehicle dealer who:

- a. does not have an established place of business,

- 1 b. does not provide for a suitable repair shop separate
2 from the display room with ample space to repair or
3 recondition one or more vehicles at the same time, and
4 which is equipped with such parts, tools and equipment
5 as may be requisite for the servicing of motor
6 vehicles in such a manner as to make them comply with
7 the safety laws of this state and to properly fulfill
8 the dealer's or manufacturer's warranty obligation,
- 9 c. does not hold a franchise in effect with a
10 manufacturer or distributor of new or unused motor
11 vehicles for the sale of the same and is not
12 authorized by the manufacturer or distributor to
13 render predelivery preparation of such vehicles sold
14 to purchasers and to perform any authorized post-sale
15 work pursuant to the manufacturer's or distributor's
16 warranty,
- 17 d. employs unlicensed salespersons, or employs or
18 utilizes the services of used motor vehicle lots or
19 dealers or other unlicensed persons in connection with
20 the sale of new motor vehicles,
- 21 e. does not properly service a new motor vehicle before
22 delivery of same to the original purchaser thereof, or
- 23 f. fails to order and stock a reasonable number of new
24 motor vehicles necessary to meet customer demand for

1 each of the new motor vehicles included in the new
2 motor vehicle dealer's franchise agreement, unless the
3 new motor vehicles are not readily available from the
4 manufacturer or distributor due to limited production;

5 8. Being a factory that has:

6 a. either induced or attempted to induce by means of
7 coercion or intimidation, any new motor vehicle
8 dealer:

9 (1) to accept delivery of any motor vehicle or
10 vehicles, parts or accessories therefor, or any
11 other commodities including advertising material
12 which shall not have been ordered by the new
13 motor vehicle dealer,

14 (2) to order or accept delivery of any motor vehicle
15 with special features, appliances, accessories or
16 equipment not included in the list price of the
17 motor vehicles as publicly advertised by the
18 manufacturer thereof, or

19 (3) to order or accept delivery of any parts,
20 accessories, equipment, machinery, tools,
21 appliances or any commodity whatsoever, or

22 b. induced under threat or discrimination by the
23 withholding from delivery to a motor vehicle dealer
24 certain models of motor vehicles, changing or amending

1 unilaterally the dealer's allotment of motor vehicles
2 and/or withholding and delaying delivery of such
3 vehicles out of the ordinary ~~cause~~ course of business,
4 in order to induce by such coercion any such dealer to
5 participate or contribute to any local or national
6 advertising fund controlled directly or indirectly by
7 the factory or for any other purposes such as contest,
8 "give-aways" or other so-called sales promotional
9 devices and/or change of quotas in any sales contest;
10 or has required motor vehicle dealers, as a condition
11 to receiving their vehicle allotment, to order a
12 certain percentage of the vehicles with optional
13 equipment not specified by the new motor vehicle
14 dealer; however, nothing in this section shall
15 prohibit a factory from supporting an advertising
16 association which is open to all dealers on the same
17 basis;

18 9. Being a factory that:

- 19 a. has attempted to coerce or has coerced any new motor
20 vehicle dealer to enter into any agreement or to
21 cancel any agreement, or fails to act in good faith
22 and in a fair, equitable and nondiscriminatory manner;
23 or has directly or indirectly coerced, intimidated,
24 threatened or restrained any motor vehicle dealer; or

1 has acted dishonestly, or has failed to act in
2 accordance with the reasonable standards of fair
3 dealing,

4 b. has failed to compensate its dealers for the work and
5 services they are required to perform in connection
6 with the dealer's delivery and preparation obligations
7 according to the agreements on file with the
8 Commission which must be found by the Commission to be
9 reasonable, or fail to adequately and fairly
10 compensate its dealers for labor, parts and other
11 expenses incurred by such dealer to perform under and
12 comply with manufacturer's warranty agreements. In
13 determining whether the warranty compensation is
14 adequate and fair, the Commission shall consider the
15 amount that is charged by the dealer or dealers in
16 their areas of responsibility to their nonwarranty
17 work of like kind. All claims made by dealers for
18 compensation for delivery, preparation and warranty
19 work shall be paid within thirty (30) days after
20 approval and shall be approved or disapproved within
21 thirty (30) days after receipt. When any claim is
22 disapproved, the dealer shall be notified in writing
23 of the grounds for disapproval. The dealer's
24 delivery, preparation and warranty obligations as

1 filed with the Commission shall constitute the
2 dealer's sole responsibility for product liability as
3 between the dealer and manufacturer. A factory may
4 reasonably and periodically audit a new motor vehicle
5 dealer to determine the validity of paid claims for
6 dealer compensation or any charge-backs for warranty
7 parts or service compensation. Audits of warranty
8 payments shall only be for the one-year period
9 immediately following the date of the payment. A
10 manufacturer shall reserve the right to reasonable,
11 periodic audits to determine the validity of paid
12 claims for dealer compensation or any charge-backs for
13 consumer or dealer incentives. Audits of incentive
14 payments shall only be for a ~~two-year~~ one-year period
15 immediately following the date of the payment. A
16 factory shall not deny a claim or charge a new motor
17 vehicle dealer back subsequent to the payment of the
18 claim unless the factory can show that the claim was
19 false or fraudulent or that the new motor vehicle
20 dealer failed to reasonably substantiate the claim by
21 the written reasonable procedures of the factory, or
22 c. unreasonably fails or refuses to offer to its same
23 line-make franchised dealers all models manufactured
24 for that line-make, or unreasonably requires a dealer

1 to pay any extra fee, purchase unreasonable
2 advertising displays or other materials, or remodel,
3 renovate, or recondition the dealer's existing
4 facilities as a prerequisite to receiving a model or
5 series of vehicles. The failure to deliver any such
6 new motor vehicle shall not be considered a violation
7 of the section if the failure is not arbitrary or is
8 due to lack of manufacturing capacity or to a strike
9 or labor difficulty, a shortage of materials, a
10 freight embargo or other cause over which the
11 manufacturer has no control. However, this
12 subparagraph shall not apply to recreational vehicles
13 or limited production model vehicles;

14 10. Being a factory that establishes a system of motor vehicle
15 allocation or distribution which is unfair, inequitable or
16 unreasonably discriminatory. Upon the request of any dealer
17 franchised by it, a factory shall disclose in writing to the dealer
18 the basis upon which new motor vehicles are allocated, scheduled and
19 delivered among the dealers of the same line-make for that factory;

20 11. Being a factory that sells directly or indirectly new motor
21 vehicles or services to any retail consumer in the state except
22 through a new motor vehicle dealer holding a franchise for the line-
23 make that includes the new motor vehicle. This paragraph does not
24 apply to factory sales of new motor vehicles to its employees,

1 family members of employees, retirees and family members of
2 retirees, not-for-profit organizations or the federal, state or
3 local governments. The provisions of this paragraph shall not
4 preclude a factory from providing information to a consumer for the
5 purpose of marketing or facilitating a sale of a new motor vehicle
6 or from establishing a program to sell or offer to sell new motor
7 vehicles through participating dealers;

8 12. a. Being a factory which directly or indirectly:

9 (1) owns any ownership interest or has any financial
10 interest in a new motor vehicle dealer or any
11 person who sells products or services to the
12 public,

13 (2) operates or controls a new motor vehicle dealer,
14 or

15 (3) acts in the capacity of a new motor vehicle
16 dealer.

17 b. (1) This paragraph does not prohibit a factory from
18 owning or controlling a new motor vehicle dealer
19 while in a bona fide relationship with a dealer
20 development candidate who has made a substantial
21 initial investment in the franchise and whose
22 initial investment is subject to potential loss.
23 ~~The dealer development candidates' percentage~~
24 ~~share of any potential dealership losses shall~~

1 ~~not be less than the percentage share of~~
2 ~~ownership of the dealership of the person at the~~
3 ~~time of the loss.~~ The dealer development
4 candidate can reasonably expect to acquire full
5 ownership of a new motor vehicle dealer within a
6 reasonable period of time not to exceed ten (10)
7 years and on reasonable terms and conditions.
8 The ten-year acquisition period may be expanded
9 for good cause shown. ~~It shall be presumed~~
10 ~~unreasonable for the terms and conditions not to~~
11 ~~require the dealer development candidate to buy~~
12 ~~the remaining ownership interests of the dealer~~
13 ~~development candidate in periodic payments over~~
14 ~~the acquisition period.~~ ~~It shall be presumed~~
15 ~~unreasonable to require the dealer development~~
16 ~~candidate to acquire the remaining interests~~
17 ~~solely from the profits or earnings of the~~
18 ~~dealership or new motor vehicle dealer.~~

19 (2) This paragraph does not prohibit a factory from
20 owning, operating, controlling or acting in the
21 capacity of a motor vehicle dealer for a period
22 not to exceed twelve (12) months during the
23 transition from one dealer to another dealer if
24 the dealership is for sale at a reasonable price

1 and on reasonable terms and conditions to an
2 independent qualified buyer. On showing by a
3 factory of good cause, the Oklahoma Motor Vehicle
4 Commission may extend the time limit set forth
5 above; extensions may be granted for periods not
6 to exceed twelve (12) months.

7 (3) This paragraph does not prohibit a factory from
8 owning, operating or controlling or acting in the
9 capacity of a motor vehicle dealer which was in
10 operation prior to January 1, 2000.

11 (4) This paragraph does not prohibit a factory from
12 owning, directly or indirectly, a minority
13 interest in an entity that owns, operates or
14 controls motor vehicle dealerships of the same
15 line-make franchised by the manufacturer,
16 provided that each of the following conditions
17 are met:

18 (a) all of the motor vehicle dealerships selling
19 the motor vehicles of that manufacturer in
20 this state trade exclusively in the line-
21 make of that manufacturer,

22 (b) all of the franchise agreements of the
23 manufacturer confer rights on the dealer of
24 the line-make to develop and operate, within

1 a defined geographic territory or area, as
2 many dealership facilities as the dealer and
3 manufacturer shall agree are appropriate,

4 (c) at the time the manufacturer first acquires
5 an ownership interest or assumes operation,
6 the distance between any dealership thus
7 owned or operated and the nearest
8 unaffiliated motor vehicle dealership
9 trading in the same line-make is not less
10 than seventy (70) miles,

11 (d) during any period in which the manufacturer
12 has such an ownership interest, the
13 manufacturer has no more than three
14 franchise agreements with new motor vehicle
15 dealers licensed by the Oklahoma Motor
16 Vehicle Commission to do business within the
17 state, and

18 (e) prior to January 1, 2000, the factory shall
19 have furnished or made available to
20 prospective motor vehicle dealers an
21 offering-circular in accordance with the
22 Trade Regulation Rule on Franchising of the
23 Federal Trade Commission, and any guidelines
24 and exemptions issued thereunder, which

1 disclose the possibility that the factory
2 may from time to time seek to own or
3 acquire, directly or indirectly, ownership
4 interests in retail dealerships;

5 13. Being a factory which directly or indirectly makes
6 available for public disclosure any proprietary information provided
7 to the factory by a new motor vehicle dealer, other than in
8 composite form to dealers in the same line-make or in response to a
9 subpoena or order of the Commission or a court. Proprietary
10 information includes, but is not limited to, information based on:

- 11 a. any information derived from monthly financial
12 statements provided to the factory, and
- 13 b. any information regarding any aspect of the
14 profitability of a particular new motor vehicle
15 dealer;

16 14. Being a factory which does not provide or direct leads in a
17 fair, equitable and timely manner. Nothing in this paragraph shall
18 be construed to require a factory to disregard the preference of a
19 consumer in providing or directing a lead;

20 15. Being a factory which used the customer list of a new motor
21 vehicle dealer for the purpose of unfairly competing with dealers;

22 16. Being a factory which prohibits a new motor vehicle dealer
23 from relocating after a written request by such new motor vehicle
24 dealer if:

1 a. the facility and the proposed new location satisfies
2 or meets the written reasonable guidelines of the
3 factory, and

4 b. the proposed new location is within the area of
5 responsibility of the new motor vehicle dealer
6 pursuant to Section 578.1 of this title;

7 17. Being a factory which prohibits a new motor vehicle dealer
8 from adding additional line-makes to its existing facility, if,
9 after adding the additional line-makes, the facility satisfies the
10 written reasonable facility guidelines of the factory; and

11 18. Being a factory that increases prices of new motor vehicles
12 which the new motor vehicle dealer had ordered for retail consumers
13 prior to the dealer's receipt of the written official price increase
14 notification. A sales contract signed by a retail consumer shall
15 constitute evidence of each such order, provided that the vehicle is
16 in fact delivered to the customer. Price differences applicable to
17 new models or series motor vehicles at the time of the introduction
18 of new models or series shall not be considered a price increase for
19 purposes of this paragraph. Price changes caused by any of the
20 following shall not be subject to the provisions of this paragraph:

21 a. the addition to a motor vehicle of required or
22 optional equipment pursuant to state or federal law,

23 b. revaluation of the United States dollar in the case of
24 foreign-made vehicles or components, or

1 c. an increase in transportation charges due to increased
2 rates imposed by common or contract carriers.

3 B. Notwithstanding the terms of any franchise agreement, in the
4 event of a proposed sale or transfer of a dealership, the
5 manufacturer or distributor shall be permitted to exercise a right
6 of first refusal to acquire the assets or ownership interest of the
7 dealer of the new vehicle dealership, if such sale or transfer is
8 conditioned upon the manufacturer or dealer entering into a dealer
9 agreement with the proposed new owner or transferee, only if all the
10 following requirements are met:

11 1. To exercise its right of first refusal, the factory must
12 notify the dealer in writing within sixty (60) days of receipt of
13 the completed proposal for the proposed sale transfer;

14 2. The exercise of the right of first refusal will result in
15 the dealer and the owner of the dealership receiving the same or
16 greater consideration as they have contracted to receive in
17 connection with the proposed change of ownership or transfer;

18 3. The proposed sale or transfer of the assets of the
19 dealership does not involve the transfer or sale to a member or
20 members of the family of one or more dealer owners, or to a
21 qualified manager or a partnership or corporation controlled by such
22 persons; and

23 4. The factory agrees to pay the reasonable expenses, including
24 attorney fees which do not exceed the usual, customary and

1 reasonable fees charged for similar work done for other clients
2 incurred by the proposed new owner and transferee prior to the
3 exercise by the factory of its right of first refusal in negotiating
4 and implementing the contract for the proposed sale or transfer of
5 the dealership or dealership assets. Notwithstanding the foregoing,
6 no payment of expenses and attorney fees shall be required if the
7 proposed new dealer or transferee has not submitted or caused to be
8 submitted an accounting of those expenses within thirty (30) days of
9 receipt of the written request of the factory for such an
10 accounting. The accounting may be requested by a factory before
11 exercising its right of first refusal.

12 C. Nothing in this section shall prohibit, limit, restrict or
13 impose conditions on:

14 1. Business activities, including without limitation the
15 dealings with motor vehicle manufacturers and the representatives
16 and affiliates of motor vehicle manufacturers, of any person that is
17 primarily engaged in the business of short-term, not to exceed
18 twelve (12) months, rental of motor vehicles and industrial and
19 construction equipment and activities incidental to that business,
20 provided that:

21 a. any motor vehicle sold by that person is limited to
22 used motor vehicles that have been previously used
23 exclusively and regularly by that person in the
24

1 conduct of business and used motor vehicles traded in
2 on motor vehicles sold by that person,

3 b. warranty repairs performed by that person on motor
4 vehicles are limited to those motor vehicles that it
5 owns, previously owned or takes in trade, and

6 c. motor vehicle financing provided by that person to
7 retail consumers for motor vehicles is limited to used
8 vehicles sold by that person in the conduct of
9 business; or

10 2. The direct or indirect ownership, affiliation or control of
11 a person described in paragraph 1 of this subsection.

12 SECTION 4. AMENDATORY 47 O.S. 2001, Section 1137.3, as
13 amended by Section 20, Chapter 326, O.S.L. 2007 (47 O.S. Supp. 2007,
14 Section 1137.3), is amended to read as follows:

15 Section 1137.3 The purchaser of every new motor vehicle, travel
16 trailer or commercial trailer shall register or license the same
17 within thirty (30) days from the date of purchase. It shall be the
18 responsibility of the selling dealer to place a temporary license
19 plate, in size similar to the permanent Oklahoma license plate but
20 of a weatherproof plastic-impregnated substance approved by the
21 Oklahoma Motor Vehicle Commission, upon a new motor vehicle, travel
22 trailer or commercial trailer when a transaction is completed for
23 the sale of said vehicle or trailer. The Except for cab and chassis
24 trucks, the temporary license plate under this section shall be

1 placed at the location provided for the permanent motor vehicle
2 license plate. The purchaser of a new cab and chassis truck may
3 place the temporary license plate under this section in the rear
4 window. Said temporary license plate shall show the dealer's
5 license number which is issued to him or her each year by the
6 Oklahoma Tax Commission, the date the new motor vehicle, travel
7 trailer or commercial trailer was purchased and the company name of
8 the selling dealer. The Oklahoma Motor Vehicle Commission is hereby
9 directed to develop a temporary license plate design to incorporate
10 these requirements in a manner that will permit law enforcement
11 personnel to readily identify the dealer license number and date of
12 the vehicle purchase. The Motor Vehicle Commission is further
13 authorized to develop additional requirements and parameters
14 designed to discourage or prevent illegal duplication and use of the
15 temporary license plate. On or before thirty (30) days from the
16 date of purchase of a new motor vehicle, travel trailer or
17 commercial trailer, said temporary license plate shall be removed
18 and replaced with a permanent, current Oklahoma license plate. Use
19 of said temporary license plate by a licensed dealer for other than
20 the purpose of normally doing business shall constitute grounds for
21 revocation of the dealer's license.

22 It shall be unlawful for any licensed dealer of new motor
23 vehicles, travel trailers or commercial trailers to procure the
24 registration and licensing of any new motor vehicle, travel trailer

1 or commercial trailer sold by such licensed dealer or to act as the
2 agent for such purchaser in the procurement of said registration and
3 licensing. The license of any licensed dealer of new motor
4 vehicles, travel trailers or commercial trailers violating the
5 provisions of this section shall be revoked.

6 SECTION 5. This act shall become effective November 1, 2008.

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