

THE HOUSE OF REPRESENTATIVES
Monday, April 16, 2007

Committee Substitute for
ENGROSSED
Senate Bill No. 86

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 86 - By: COATES
of the Senate and PETERSON (RON) of the House.

(motor vehicles - legislative findings - Oklahoma Vehicle License and
Registration Act – codification - effective date –
emergency)

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

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 561.1 of Title 47, unless there is created a duplication in numbering,
3 reads as follows:
4 The Legislature finds and declares that the distribution and sale of new,
5 motorcycles, off-road motorcycles and all-terrain vehicles in the State of Oklahoma
6 vitally affects the general economy of the state and the public interest and the public
7 welfare, and that in order to promote the public interest and the public welfare, and in
8 the exercise of its police powers, it is necessary to regulate and to license motorcycle, off-
9 highway motorcycles and all-terrain manufacturers, distributors, representatives, new,
10 motorcycle, off-highway motorcycles and all-terrain dealers and salespersons of new,
11 motorcycle, off-highway motorcycles and all-terrain doing business in Oklahoma, in order

1 to prevent frauds, impositions and other abuses upon its citizens and to protect and
2 preserve the investments and properties of the citizens of this state, and in order to avoid
3 undue control of the independent motorcycle, off-highway motorcycles and all-terrain
4 dealer by the motorcycle, off-highway motorcycles and all-terrain vehicle manufacturing
5 and distributing organizations, and in order to foster and keep alive vigorous and healthy
6 competition by prohibiting unfair practices by which fair and honest competition is
7 destroyed or prevented, and to protect the public against the creation or perpetuation of
8 monopolies and practices detrimental to the public welfare, to prevent the practice of
9 requiring the buying of special features, appliances and equipment not desired or
10 requested by the purchaser, to prevent false and misleading advertising, to prevent
11 unfair practices by new, motorcycles, off-road motorcycles and all-terrain vehicles
12 dealers, manufacturers and distributing organizations, to promote the public safety and
13 prevent disruption of the franchise system of distribution of new, motorcycles, off-road
14 motorcycles and all-terrain vehicles to the public and prevent deterioration of facilities
15 for servicing new, motorcycles, off-road motorcycles and all-terrain vehicles and keeping
16 same safe and properly functioning, and prevent bankrupting of motorcycle, off-highway
17 motorcycles and all-terrain vehicle dealers, who might otherwise be caused to fail
18 because of such unfair practices.

19 SECTION 2. AMENDATORY 47 O.S. 2001, Section 562, as last amended by
20 Section 2, Chapter 213, O.S.L. 2006 (47 O.S. Supp. 2006, Section 562), is amended to
21 read as follows:

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

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

8 2. "New motor vehicle dealer" means any person, firm, association, corporation or
9 trust not excluded by this paragraph who sells, offers for sale, advertises to sell, leases or
10 displays new, unused or remanufactured motor vehicles and holds a bona fide contract or
11 franchise in effect with a manufacturer, remanufacturer or distributor authorized by the
12 manufacturer or remanufacturer to make predelivery preparation of such vehicles sold to
13 purchasers and to perform post-sale work pursuant to the manufacturer's,
14 remanufacturer's or distributor's warranty. As used herein, "authorized predelivery
15 preparation" means the rendition by the dealer of services and safety adjustments on
16 each new, unused or remanufactured motor vehicle in accordance with the procedure and
17 safety standards required by the manufacturer or remanufacturer of the vehicle to be
18 made before its delivery to the purchaser. "Performance of authorized post-sale work
19 pursuant to the warranty", as used herein, means the rendition of services which are
20 required by the terms of the warranty that stands extended to the vehicle at the time of
21 its sale and are to be made in accordance with the safety standards prescribed by the
22 manufacturer or remanufacturer. The term includes premises or facilities at which a

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

- 11 a. receivers, trustees, administrators, executors, guardians or other
12 persons appointed by or acting under judgment or order of any court,
- 13 b. public officers while performing or in operation of their duties, ~~or~~
- 14 c. employees of persons, corporations or associations enumerated in
15 subparagraph a of this paragraph when engaged in the specific
16 performance of their duties as such employees, or
- 17 d. sellers of implements of husbandry as described in Section 1-125 of
18 this title;

19 3. "Motor vehicle salesperson" means any person who, for gain or compensation of
20 any kind, either directly or indirectly, regularly or occasionally, by any form of agreement
21 or arrangement, sells or negotiates for the sale of any new or unused motor vehicle for

1 any new, unused or remanufactured motor vehicle dealer to any one or more third
2 parties;

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

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

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

12 7. "Factory branch" means any branch office maintained by a person, firm,
13 association, corporation or trust who manufactures or assembles motor vehicles for the
14 sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle
15 dealers, or for directing or supervising, in whole or in part, its representatives;

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

18 9. "Factory representative" means any officer or agent engaged as a representative
19 of a manufacturer of motor vehicles or by a factory branch, for the purpose of making or
20 promoting the sale of its motor vehicles, or for supervising or contacting its dealers or
21 prospective dealers;

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

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

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

15 13. "Area of responsibility" means the geographical area, as designated by the
16 manufacturer, factory branch, factory representative, distributor, distributor branch or
17 distributor representative, in which the new motor vehicle dealer is held responsible for
18 the promotion and development of sales and rendering of service for the make of motor
19 vehicle for which the motor vehicle dealer holds a franchise or selling agreement;

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

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

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

9 17. "Vehicle remanufacturer" means a commercial entity which assembles
10 remanufactured vehicles;

11 18. "Product" means new motor vehicles and new motor vehicle parts;

12 19. "Service" means motor vehicle warranty repairs including both parts and labor;

13 20. "Lead" means a consumer contact in response to a factory program designed to
14 generate interest in purchasing or leasing a new motor vehicle;

15 21. "Sell or sale" means to sell or lease; and

16 22. "Factory" means a manufacturer, distributor, factory branch, distributor
17 branch, factory representative or distributor representative, which manufactures or
18 distributes vehicle products.

19 SECTION 3. AMENDATORY 47 O.S. 2001, Section 1102, as last amended by
20 Section 2, Chapter 295, O.S.L. 2006 (47 O.S. Supp. 2006, Section 1102), is amended to
21 read as follows:

22 Section 1102. As used in the Oklahoma Vehicle License and Registration Act:

1 1. “All-terrain vehicle” means a ~~motorized~~ motor vehicle powered by an internal
2 combustion engine manufactured and used exclusively for off-highway use which is ~~sixty~~
3 ~~(60)~~ fifty (50) inches or less in width, with an unladen dry weight of ~~one thousand five~~
4 ~~hundred (1,500)~~ one thousand (1,000) pounds or less, traveling on ~~two~~ three or more low-
5 pressure tires, having a seat designed to be straddled by the operator, and which is
6 steered by the use of handlebars;

7 2. “Carrying capacity” means the carrying capacity of a vehicle as determined or
8 declared in tons of cargo or payload by the owner; provided, that such declared capacity
9 shall not be less than the minimum tonnage capacity fixed, listed or advertised by the
10 manufacturer of any vehicle;

11 3. “Certificate of title” means a document which is proof of legal ownership of a
12 motor vehicle as described and provided for in Section 1105 of this title;

13 4. “Chips and oil” or the term “road oil and crushed rock” means, with respect to
14 materials authorized for use in the surfacing of roads or highways in this title or in any
15 equivalent statute pertaining to road or highway surfacing in the State of Oklahoma, any
16 asphaltic materials. Wherever chips and oil or road oil and crushed rock are authorized
17 for use in the surfacing of roads or highways in this state, whether by the Department of
18 Transportation, or by the county commissioners, or other road building authority subject
19 to the Oklahoma Vehicle License and Registration Act, asphaltic materials are also
20 authorized for use in such surfacing and construction;

21 5. “Combined laden weight” means the weight of a truck or station wagon and its
22 cargo or payload transported thereon, or the weight of a truck or truck-tractor plus the

1 weight of any trailers or semitrailers together with the cargo or payload transported
2 thereon;

3 6. “Commercial trailer” means any trailer, as defined in Section 1-180 of this title,
4 or semitrailer, as defined in Section 1-162 of this title, when such trailer or semitrailer is
5 used primarily for business or commercial purposes;

6 7. “Commercial trailer dealer” means any person, firm or corporation engaged in
7 the business of selling any new and unused, or used, or both new and used commercial
8 trailers;

9 8. “Commercial vehicle” means any vehicle over eight thousand (8,000) pounds
10 combined laden weight used primarily for business or commercial purposes. Each motor
11 vehicle being registered pursuant to the provisions of this section shall have the name of
12 the commercial establishment or the words “Commercial Vehicle” permanently and
13 prominently displayed upon the outside of the vehicle in letters not less than two (2)
14 inches high. Such letters shall be in sharp contrast to the background and shall be of
15 sufficient shape and color as to be readily legible during daylight hours, from a distance
16 of fifty (50) feet while the vehicle is not in motion;

17 9. “Commission” or “Tax Commission” means the Oklahoma Tax Commission;

18 10. “Dealer” means any person, firm, association, corporation or trust who sells,
19 solicits or advertises the sale of new and unused motor vehicles and holds a bona fide
20 contract or franchise in effect with a manufacturer or distributor of a particular make of
21 new or unused motor vehicle or vehicles for the sale of same;

1 11. “Interstate commerce” means any commerce moving between any place in a
2 state and any place in another state or between places in the same state through another
3 state;

4 12. “Laden weight” means the combined weight of a vehicle when fully equipped for
5 use and the cargo or payload transported thereon; provided that in no event shall the
6 laden weight be less than the unladen weight of the vehicle fully equipped for use, plus
7 the manufacturer’s rated carrying capacity;

8 13. “Local authorities” means every county, municipality or local board or body
9 having authority to adopt police regulations under the Constitution and laws of this
10 state;

11 14. “Low-speed electrical vehicle” means any four-wheeled electrical vehicle that is
12 powered by an electric motor that draws current from rechargeable storage batteries or
13 other sources of electrical current and whose top speed is greater than twenty (20) miles
14 per hour but not greater than twenty-five (25) miles per hour and is manufactured in
15 compliance with the National Highway Traffic Safety Administration standards for low-
16 speed vehicles in 49 C.F.R. 571.500;

17 15. “Manufactured home” means a residential dwelling built in accordance with the
18 National Manufactured Housing Construction and Safety Standards Act of 1974, 42
19 U.S.C., Section 5401 et seq., and rules promulgated pursuant thereto and the rules
20 promulgated by the Oklahoma Used Motor Vehicle and Parts Commission pursuant to
21 Section 582 of this title;

1 16. “Manufactured home dealer” means any person, firm or corporation engaged in
2 the business of selling any new and unused, or used, or both new and used manufactured
3 homes. Such information and a valid franchise letter as proof of authorization to sell any
4 such new manufactured home product line or lines shall be attached to said application
5 for a dealer license to sell manufactured homes. “Manufactured home dealer” shall not
6 include any person, firm or corporation who sells or contracts for the sale of the dealer’s
7 own personally titled manufactured home or homes. No person, firm or corporation shall
8 be considered a manufactured home dealer as to any manufactured home purchased or
9 acquired by such person, firm or corporation for purposes other than resale; provided,
10 that the restriction set forth in this sentence shall not prevent an otherwise qualified
11 person, firm or corporation from utilizing a single manufactured home as a sales office;

12 17. “Motor license agent” means any person appointed, designated or authorized by
13 the Oklahoma Tax Commission to collect the fees and to enforce the provisions provided
14 for in the Oklahoma Vehicle License and Registration Act;

15 18. “New vehicle” or “unused vehicle” means a vehicle which has been in the
16 possession of the manufacturer, distributor or wholesaler or has been sold only by the
17 manufacturer, distributor or wholesaler to a dealer;

18 19. “Nonresident” means any person who is not a resident of this state;

19 20. “Off-road motorcycle” means any motorcycle, as defined in Section 1-135 of this
20 title, when such motorcycle has been manufactured for and used exclusively off-road,
21 highways and any other paved surfaces;

1 21. "Owner" means any person owning, operating or possessing any vehicle herein
2 defined;

3 22. "Person" means any individual, copartner, joint venture, association,
4 corporation, limited liability company, estate, trust, business trust, syndicate, the State
5 of Oklahoma, or any county, city, municipality, school district or other political
6 subdivision thereof, or any group or combination acting as a unit, or any receiver
7 appointed by the state or federal court;

8 23. "Recreational vehicle" means every vehicle which is built on or permanently
9 attached to a self-propelled motor chassis or chassis cab which becomes an integral part
10 of the completed vehicle and is capable of being operated on the highways. In order to
11 qualify as a recreational vehicle pursuant to this paragraph such vehicle shall be
12 permanently constructed and equipped for human habitation, having its own sleeping
13 and kitchen facilities, including permanently affixed cooking facilities, water tanks and
14 holding tank with permanent toilet facilities. Recreational vehicle shall not include
15 manufactured homes or any vehicle with portable sleeping, toilet and kitchen facilities
16 which are designed to be removed from such vehicle;

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

21 25. "Rental trailer" means all small or utility trailers or semitrailers constructed
22 and suitable for towing by a passenger automobile and designed only for carrying

1 property, when said trailers or semitrailers are owned by, or are in the possession of, any
2 person engaged in renting or leasing such trailers or semitrailers for intrastate or
3 interstate use or combined intrastate and interstate use;

4 26. "Special mobilized machinery" means special purpose machines or devices,
5 either self-propelled or drawn as trailers or semitrailers, which derive no revenue from
6 the transportation of persons or property, whose use of the highway is only incidental,
7 and whose useful revenue producing service is performed at destinations in an area away
8 from the traveled surface of an established open highway;

9 27. "State" means the State of Oklahoma;

10 28. "Station wagon" means any passenger vehicle which does not have a separate
11 luggage compartment or trunk and which does not have open beds, and has one or more
12 rear seats readily lifted out or folded, whether same is called a station wagon or ranch
13 wagon;

14 29. "Travel trailer" means any vehicular portable structure built on a chassis, used
15 as a temporary dwelling for travel, recreational or vacation use, and, when factory-
16 equipped for the road, it shall have a body width not exceeding eight (8) feet and an
17 overall length not exceeding forty (40) feet, including the hitch or coupling;

18 30. "Travel trailer dealer" means any person, firm or corporation engaged in the
19 business of selling any new and unused, or used, or both new and used travel trailers.
20 Such information and a valid franchise letter as proof of authorization to sell any such
21 new travel trailer product line or lines shall be attached to said application for a dealer
22 license to sell travel trailers. "Travel trailer dealer" shall not include any person, firm or

1 corporation who sells or contracts for the sale of his or her own personally titled travel
2 trailer or trailers. No person, firm or corporation shall be considered as a travel trailer
3 dealer as to any travel trailer purchased or acquired by such person, firm or corporation
4 for purposes other than resale;

5 31. "Used motor vehicle dealer" means "used motor vehicle dealer" as defined in
6 Section 581 of this title;

7 32. "Used vehicle" means any vehicle which has been sold, bargained, exchanged or
8 given away, or used to the extent that it has become what is commonly known, and
9 generally recognized, as a "secondhand" vehicle. This shall also include any vehicle other
10 than a remanufactured vehicle, regardless of age, owned by any person who is not a
11 dealer;

12 33. "Vehicle" means any type of conveyance or device in, upon or by which a person
13 or property is or may be transported from one location to another upon the avenues of
14 public access within the state. "Vehicle" does not include bicycles, trailers except travel
15 trailers and rental trailers, or implements of husbandry as defined in Section 1-125 of
16 this title. All implements of husbandry used as conveyances shall be required to display
17 the owner's driver's license number or license plate number of any vehicle owned by the
18 owner of the implement of husbandry on the rear of the implement in numbers not less
19 than two (2) inches in height. The use of the owner's social security number on the rear
20 of the implement of husbandry shall not be required; and

21 34. "Vehicle remanufacturer" means a commercial entity which assembles
22 remanufactured vehicles.

1 SECTION 4. This act shall become effective July 1, 2007.

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

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
6 dated 04-12-07 - DO PASS, As Amended.