

SB 1727

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THE STATE SENATE  
Wednesday, February 20, 2008

Senate Bill No. 1727  
As Amended

SENATE BILL NO. 1727 - By: MYERS of the Senate and ADKINS of the House.

An Act relating to motor vehicles; amending 47 O.S. 2001, Sections 562, as last amended by Section 2, Chapter 213, O.S.L. 2006, 564, 565, as amended by Section 1, Chapter 141, O.S.L. 2005, and 1102, as last amended by Section 1, Chapter 177, O.S.L. 2007 (47 O.S. Supp. 2007, Sections 562, 565, and 1102), which relate to defining terms for motor vehicle dealers, motor vehicle dealer licenses, license penalties, and defining terms for motor vehicle registration; modifying certain definition; limiting inventory and sale of certain vehicles by certain sellers; modifying license fees; providing for penalties against dealers or salespersons who sell certain all-terrain vehicles to certain persons; modifying certain definition; defining term; and providing an effective date.

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

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

Section 562. The following words, terms and phrases, when used in Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different 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~~ including all-terrain vehicles ~~and~~, motorcycles, and  
4 utility vehicles used exclusively for 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.

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

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

1           d. sellers of implements of husbandry as described in  
2           Section 1-125 of this title, so long as:

3           (1) all-terrain vehicles and/or utility vehicles as  
4           defined in Section 1102 of this title do not  
5           constitute a majority of the inventory of the  
6           seller, and

7           (2) such sellers do not engage in the sale of any  
8           other type of motor vehicle including  
9           motorcycles;

10          3. "Motor vehicle salesperson" means any person who, for gain  
11 or compensation of any kind, either directly or indirectly,  
12 regularly or occasionally, by any form of agreement or arrangement,  
13 sells or negotiates for the sale of any new or unused motor vehicle  
14 for any new, unused or remanufactured motor vehicle dealer to any  
15 one or more third parties;

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

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

22          6. "Distributor" means any person, firm, association,  
23 corporation or trust, resident or nonresident, who, being authorized

1 by the original manufacturer, in whole or in part sells or  
2 distributes new and unused motor vehicles to motor vehicle dealers,  
3 or who maintains distributor representatives;

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

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

13 9. "Factory representative" means any officer or agent engaged  
14 as a representative of a manufacturer of motor vehicles or by a  
15 factory branch, for the purpose of making or promoting the sale of  
16 its motor vehicles, or for supervising or contacting its dealers or  
17 prospective dealers;

18 10. "Distributor representative" means any person, firm,  
19 association, corporation or trust and each officer and employee  
20 thereof engaged as a representative of a distributor or distributor  
21 branch of motor vehicles, for the purpose of making or promoting the  
22 sale of its motor vehicles, or for supervising or contacting its  
23 dealers or prospective dealers;

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

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

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

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

22       15. "Sponsoring entity" means any person, firm, association,  
23 corporation or trust which has control, either permanently or

1 temporarily, over the real property upon which the off-premise sale  
2 or display is conducted;

3 16. "Remanufactured vehicle" means a motor vehicle which has  
4 been assembled by a vehicle remanufacturer using a new body and  
5 which may include original, reconditioned or remanufactured parts,  
6 and which is not a salvage, rebuilt or junked vehicle as defined by  
7 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  
10 assembles remanufactured vehicles;

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

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

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

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

19 22. "Factory" means a manufacturer, distributor, factory  
20 branch, distributor branch, factory representative or distributor  
21 representative, which manufactures or distributes vehicle products.

22 SECTION 2. AMENDATORY 47 O.S. 2001, Section 564, is  
23 amended to read as follows:

1 Section 564. A. It shall be unlawful for any person, firm,  
2 association, corporation or trust to engage in business as, or serve  
3 in the capacity of, or act as a motor vehicle dealer, or motor  
4 vehicle salesperson, or manufacturer or distributor of new motor  
5 vehicles, or factory branch, distributor branch or factory  
6 representative or distributor representative, as such, in this state  
7 without first obtaining a license therefor as provided for by law.  
8 Any person, firm, association, corporation or trust engaging in more  
9 than one of such capacities or having more than one place where such  
10 business is carried on or conducted shall be required to obtain and  
11 hold a current license for each thereof. Provided that, a new motor  
12 vehicle dealer's license shall authorize one person to sell without  
13 a salesperson's license in the event such person shall be the owner  
14 of a proprietorship, or the person designated as principal in the  
15 dealer's franchise or the managing officer or one partner if no  
16 principal person is named in the franchise.

17 B. Applications for licenses required to be obtained under  
18 provisions of Section 561 et seq. of this title shall be verified by  
19 the oath or affirmation of the applicant and shall be on forms  
20 prescribed by the Oklahoma Motor Vehicle Commission and furnished to  
21 such applicants, and shall contain such information as the  
22 Commission deems necessary to enable it to fully determine the  
23 qualifications and eligibility of the several applicants to receive



1 the license or licenses applied for. The Commission shall require  
2 in such application, or otherwise, information relating to the  
3 applicant's financial standing, the applicant's business integrity,  
4 whether the applicant has an established place of business and is  
5 primarily engaged in the pursuit, avocation or business for which a  
6 license, or licenses, are applied for, and whether the applicant is  
7 able to properly conduct the business for which a license, or  
8 licenses, are applied for, and such other pertinent information  
9 consistent with the safeguarding of the public interest and the  
10 public welfare. All such applications for license or licenses shall  
11 be accompanied by the appropriate fee or fees therefor in accordance  
12 with the schedule thereof hereinafter set out. In the event any  
13 such application is denied and the license applied for is not  
14 issued, the entire license fee shall be returned to the applicant.  
15 All licenses issued under the provisions of Section 561 et seq. of  
16 this title shall expire on June 30, following the date of issue and  
17 shall be nontransferable. All applications for renewal of a license  
18 for a new motor vehicle dealer, salesperson, manufacturer,  
19 distributor or manufacturer's or distributor's representative shall  
20 be submitted by June 1 of each year, and such license or licenses  
21 will be issued by July 1. If applications have not been made for  
22 renewal of licenses at the times described in this subsection, it  
23 shall be illegal for any person to represent himself or herself and

1 act as a dealer, salesperson, manufacturer, distributor or  
2 manufacturer's or distributor's representative. Motor license  
3 agents will be notified not to accept such dealers' titles until  
4 such time as licenses have been issued by the Commission.

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

7 C. The schedule of license fees to be charged and received by  
8 the Commission for the licenses issued hereunder shall be as  
9 follows:

10 1. For each factory branch or distributor branch, ~~Two Hundred~~  
11 ~~Dollars (\$200.00)~~ Four Hundred Dollars (\$400.00) initial fee with  
12 annual renewal fee of ~~One Hundred Dollars (\$100.00)~~ Two Hundred  
13 Dollars (\$200.00);

14 2. For each manufacturer or distributor of new motor vehicles,  
15 ~~Two Hundred Dollars (\$200.00)~~ Four Hundred Dollars (\$400.00) initial  
16 fee with annual renewal fee of ~~One Hundred Dollars (\$100.00)~~ Two  
17 Hundred Dollars (\$200.00);

18 3. For each factory representative or distributor  
19 representative, ~~Sixty Dollars (\$60.00)~~ One Hundred Dollars (\$100.00)  
20 annually;

21 4. For each new motor vehicle dealer, initial fee of ~~Two~~  
22 ~~Hundred Dollars (\$200.00)~~ Two Hundred Fifty Dollars (\$250.00) per  
23 franchise sold at each location licensed, with an annual renewal fee

1 of ~~Sixty Dollars (\$60.00)~~ One Hundred Dollars (\$100.00) per  
2 franchise sold at each location per year; and

3 5. For each salesperson, ~~Ten Dollars (\$10.00)~~ Twenty-five  
4 Dollars (\$25.00) renewed annually.

5 D. The licenses issued to each new motor vehicle dealer,  
6 manufacturer, distributor, factory branch, distributor branch or  
7 representative, if a corporation, shall specify the location of the  
8 factory, office or branch thereof. In case such location is  
9 changed, the Commission may endorse the change of location on the  
10 license without charge unless the change of address triggers a  
11 relocation of a new motor vehicle dealer pursuant to the provisions  
12 of Section 578.1 of this title. The license of each dealer shall be  
13 posted in a conspicuous place in the dealer's place or places of  
14 business.

15 Every motor vehicle salesperson, factory representative or  
16 distributor representative if an individual shall physically possess  
17 the license when engaged in business, and shall display same upon  
18 request. The name of the employer of such salesperson, factory  
19 representative or distributor representative shall be stated on the  
20 license and, in case of a change of employer, the holder of such  
21 license shall immediately mail same to the Commission for its  
22 endorsement of such change thereon. The Commission shall endorse  
23 each such change of employer on licenses without charge.

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

4 Section 565. A. The Oklahoma Motor Vehicle Commission may deny  
5 an application for a license, or revoke or suspend a license or  
6 impose a fine not to exceed Ten Thousand Dollars (\$10,000.00)  
7 against a manufacturer or distributor or a fine not to exceed One  
8 Thousand Dollars (\$1,000.00) against a dealer per occurrence that  
9 any provision of Sections 561 through 567, 572, 578.1, 579 and 579.1  
10 of this title is violated or for any of the following reasons:

11 1. On satisfactory proof of unfitness of the applicant in any  
12 application for any license under the provisions of Section 561 et  
13 seq. of this title;

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

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

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

22 5. Being a new motor vehicle dealer or new motor vehicle  
23 salesperson who:

- 1           a.    has required a purchaser of a new motor vehicle, as a  
2                   condition of sale and delivery thereof, to also  
3                   purchase special features, appliances, accessories or  
4                   equipment not desired or requested by the purchaser  
5                   and installed by the dealer,
- 6           b.    uses any false or misleading advertising in connection  
7                   with business as a new motor vehicle dealer or vehicle  
8                   salesperson,
- 9           c.    has committed any unlawful act which resulted in the  
10                  revocation of any similar license in another state,
- 11          d.    has failed or refused to perform any written agreement  
12                  with any retail buyer involving the sale of a motor  
13                  vehicle,
- 14          e.    has been convicted of a crime involving moral  
15                  turpitude,
- 16          f.    has committed a fraudulent act in selling, purchasing  
17                  or otherwise dealing in new motor vehicles or has  
18                  misrepresented the terms and conditions of a sale,  
19                  purchase or contract for sale or purchase of a new  
20                  motor vehicle or any interest therein including an  
21                  option to purchase such vehicle, ~~or~~

- 1           g.    has failed to meet or maintain the conditions and  
2                    requirements necessary to qualify for the issuance of  
3                    a license, or  
4           h.    has knowingly sold an all-terrain vehicle, as defined  
5                    by Section 1102 of this title:  
6                    (1) to or for the use of any person less than six (6)  
7                            years of age,  
8                    (2) with a piston or rotor displacement of greater  
9                            than seventy cubic centimeters (70 cu cm) to or  
10                           for the use of any person at least six (6) years  
11                           of age but less than twelve (12) years of age, or  
12                    (3) with a piston or rotor displacement of greater  
13                            than ninety cubic centimeters (90 cu cm) to or  
14                            for the use of any person at least twelve (12)  
15                            years of age but less than sixteen (16) years of  
16                            age;

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

- 19           7.    Being a new motor vehicle dealer who:  
20                   a.    does not have an established place of business,  
21                   b.    does not provide for a suitable repair shop separate  
22                            from the display room with ample space to repair or  
23                            recondition one or more vehicles at the same time, and

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

1 new motor vehicles are not readily available from the  
2 manufacturer or distributor due to limited production;

3 8. Being a factory that has:

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

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

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

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

20 b. induced under threat or discrimination by the  
21 withholding from delivery to a motor vehicle dealer  
22 certain models of motor vehicles, changing or amending  
23 unilaterally the dealer's allotment of motor vehicles



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

17 9. Being a factory that:

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

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

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

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

1           11. Being a factory that sells directly or indirectly new motor  
2 vehicles or services to any retail consumer in the state except  
3 through a new motor vehicle dealer holding a franchise for the line-  
4 make that includes the new motor vehicle. This paragraph does not  
5 apply to factory sales of new motor vehicles to its employees,  
6 family members of employees, retirees and family members of  
7 retirees, not-for-profit organizations or the federal, state or  
8 local governments. The provisions of this paragraph shall not  
9 preclude a factory from providing information to a consumer for the  
10 purpose of marketing or facilitating a sale of a new motor vehicle  
11 or from establishing a program to sell or offer to sell new motor  
12 vehicles through participating dealers;

- 13           12. a.       Being a factory which directly or indirectly:
- 14                       (1) owns any ownership interest or has any financial  
15                       interest in a new motor vehicle dealer or any  
16                       person who sells products or services to the  
17                       public,
- 18                       (2) operates or controls a new motor vehicle dealer,  
19                       or
- 20                       (3) acts in the capacity of a new motor vehicle  
21                       dealer.
- 22           b.       (1) This paragraph does not prohibit a factory from  
23                       owning or controlling a new motor vehicle dealer

1 while in a bona fide relationship with a dealer  
2 development candidate who has made a substantial  
3 initial investment in the franchise and whose  
4 initial investment is subject to potential loss.  
5 The dealer development candidates' percentage  
6 share of any potential dealership losses shall  
7 not be less than the percentage share of  
8 ownership of the dealership of the person at the  
9 time of the loss. The dealer development  
10 candidate can reasonably expect to acquire full  
11 ownership of a new motor vehicle dealer within a  
12 reasonable period of time not to exceed ten (10)  
13 years and on reasonable terms and conditions.  
14 The ten-year acquisition period may be expanded  
15 for good cause shown. It shall be presumed  
16 unreasonable for the terms and conditions not to  
17 require the dealer development candidate to buy  
18 the remaining ownership interests of the dealer  
19 development candidate in periodic payments over  
20 the acquisition period. It shall be presumed  
21 unreasonable to require the dealer development  
22 candidate to acquire the remaining interests

1 solely from the profits or earnings of the  
2 dealership or new motor vehicle dealer.

3 (2) This paragraph does not prohibit a factory from  
4 owning, operating, controlling or acting in the  
5 capacity of a motor vehicle dealer for a period  
6 not to exceed twelve (12) months during the  
7 transition from one dealer to another dealer if  
8 the dealership is for sale at a reasonable price  
9 and on reasonable terms and conditions to an  
10 independent qualified buyer. On showing by a  
11 factory of good cause, the Oklahoma Motor Vehicle  
12 Commission may extend the time limit set forth  
13 above; extensions may be granted for periods not  
14 to exceed twelve (12) months.

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

19 (4) This paragraph does not prohibit a factory from  
20 owning, directly or indirectly, a minority  
21 interest in an entity that owns, operates or  
22 controls motor vehicle dealerships of the same  
23 line-make franchised by the manufacturer,

1 provided that each of the following conditions  
2 are met:

3 (a) all of the motor vehicle dealerships selling  
4 the motor vehicles of that manufacturer in  
5 this state trade exclusively in the line-  
6 make of that manufacturer,

7 (b) all of the franchise agreements of the  
8 manufacturer confer rights on the dealer of  
9 the line-make to develop and operate, within  
10 a defined geographic territory or area, as  
11 many dealership facilities as the dealer and  
12 manufacturer shall agree are appropriate,

13 (c) at the time the manufacturer first acquires  
14 an ownership interest or assumes operation,  
15 the distance between any dealership thus  
16 owned or operated and the nearest  
17 unaffiliated motor vehicle dealership  
18 trading in the same line-make is not less  
19 than seventy (70) miles,

20 (d) during any period in which the manufacturer  
21 has such an ownership interest, the  
22 manufacturer has no more than three  
23 franchise agreements with new motor vehicle



1 dealers licensed by the Oklahoma Motor  
2 Vehicle Commission to do business within the  
3 state, and

4 (e) prior to January 1, 2000, the factory shall  
5 have furnished or made available to  
6 prospective motor vehicle dealers an  
7 offering-circular in accordance with the  
8 Trade Regulation Rule on Franchising of the  
9 Federal Trade Commission, and any guidelines  
10 and exemptions issued thereunder, which  
11 disclose the possibility that the factory  
12 may from time to time seek to own or  
13 acquire, directly or indirectly, ownership  
14 interests in retail dealerships;

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

21 a. any information derived from monthly financial  
22 statements provided to the factory, and

1           b.    any information regarding any aspect of the  
2                    profitability of a particular new motor vehicle  
3                    dealer;

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

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

10          16.   Being a factory which prohibits a new motor vehicle dealer  
11   from relocating after a written request by such new motor vehicle  
12   dealer if:

13           a.    the facility and the proposed new location satisfies  
14                    or meets the written reasonable guidelines of the  
15                    factory, and

16           b.    the proposed new location is within the area of  
17                    responsibility of the new motor vehicle dealer  
18                    pursuant to Section 578.1 of this title;

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

1           18. Being a factory that increases prices of new motor vehicles  
2 which the new motor vehicle dealer had ordered for retail consumers  
3 prior to the dealer's receipt of the written official price increase  
4 notification. A sales contract signed by a retail consumer shall  
5 constitute evidence of each such order, provided that the vehicle is  
6 in fact delivered to the customer. Price differences applicable to  
7 new models or series motor vehicles at the time of the introduction  
8 of new models or series shall not be considered a price increase for  
9 purposes of this paragraph. Price changes caused by any of the  
10 following shall not be subject to the provisions of this paragraph:

- 11           a. the addition to a motor vehicle of required or
- 12                       optional equipment pursuant to state or federal law,
- 13           b. revaluation of the United States dollar in the case of
- 14                       foreign-made vehicles or components, or
- 15           c. an increase in transportation charges due to increased
- 16                       rates imposed by common or contract carriers.

17           B. Notwithstanding the terms of any franchise agreement, in the  
18 event of a proposed sale or transfer of a dealership, the  
19 manufacturer or distributor shall be permitted to exercise a right  
20 of first refusal to acquire the assets or ownership interest of the  
21 dealer of the new vehicle dealership, if such sale or transfer is  
22 conditioned upon the manufacturer or dealer entering into a dealer

1 agreement with the proposed new owner or transferee, only if all the  
2 following requirements are met:

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

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

10 3. The proposed sale or transfer of the assets of the  
11 dealership does not involve the transfer or sale to a member or  
12 members of the family of one or more dealer owners, or to a  
13 qualified manager or a partnership or corporation controlled by such  
14 persons; and

15 4. The factory agrees to pay the reasonable expenses, including  
16 attorney fees which do not exceed the usual, customary and  
17 reasonable fees charged for similar work done for other clients  
18 incurred by the proposed new owner and transferee prior to the  
19 exercise by the factory of its right of first refusal in negotiating  
20 and implementing the contract for the proposed sale or transfer of  
21 the dealership or dealership assets. Notwithstanding the foregoing,  
22 no payment of expenses and attorney fees shall be required if the  
23 proposed new dealer or transferee has not submitted or caused to be

1 submitted an accounting of those expenses within thirty (30) days of  
2 receipt of the written request of the factory for such an  
3 accounting. The accounting may be requested by a factory before  
4 exercising its right of first refusal.

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

7 1. Business activities, including without limitation the  
8 dealings with motor vehicle manufacturers and the representatives  
9 and affiliates of motor vehicle manufacturers, of any person that is  
10 primarily engaged in the business of short-term, not to exceed  
11 twelve (12) months, rental of motor vehicles and industrial and  
12 construction equipment and activities incidental to that business,  
13 provided that:

- 14 a. any motor vehicle sold by that person is limited to  
15 used motor vehicles that have been previously used  
16 exclusively and regularly by that person in the  
17 conduct of business and used motor vehicles traded in  
18 on motor vehicles sold by that person,
- 19 b. warranty repairs performed by that person on motor  
20 vehicles are limited to those motor vehicles that it  
21 owns, previously owned or takes in trade, and
- 22 c. motor vehicle financing provided by that person to  
23 retail consumers for motor vehicles is limited to used

1                   vehicles sold by that person in the conduct of  
2                   business; or

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

5           SECTION 4.           AMENDATORY           47 O.S. 2001, Section 1102, as  
6 last amended by Section 1, Chapter 177, O.S.L. 2007 (47 O.S. Supp.  
7 2007, Section 1102), is amended to read as follows:

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

10           1. "All-terrain vehicle" means a ~~motorized~~ vehicle powered by  
11 an internal combustion engine, manufactured and used exclusively for  
12 off-highway use ~~which is forty eight (48) inches or less in width,~~  
13 ~~with an unladen dry weight of eight hundred (800) pounds or less,~~  
14 traveling on ~~two~~ four or more low-pressure tires, and having a seat  
15 designed to be straddled by the operator and handlebars for  
16 steering;

17           2. "Carrying capacity" means the carrying capacity of a vehicle  
18 as determined or declared in tons of cargo or payload by the owner;  
19 provided, that such declared capacity shall not be less than the  
20 minimum tonnage capacity fixed, listed or advertised by the  
21 manufacturer of any vehicle;

1           3. "Certificate of title" means a document which is proof of  
2 legal ownership of a motor vehicle as described and provided for in  
3 Section 1105 of this title;

4           4. "Chips and oil" or the term "road oil and crushed rock"  
5 means, with respect to materials authorized for use in the surfacing  
6 of roads or highways in this title or in any equivalent statute  
7 pertaining to road or highway surfacing in the State of Oklahoma,  
8 any asphaltic materials. Wherever chips and oil or road oil and  
9 crushed rock are authorized for use in the surfacing of roads or  
10 highways in this state, whether by the Department of Transportation,  
11 or by the county commissioners, or other road building authority  
12 subject to the Oklahoma Vehicle License and Registration Act,  
13 asphaltic materials are also authorized for use in such surfacing  
14 and construction;

15           5. "Combined laden weight" means the weight of a truck or  
16 station wagon and its cargo or payload transported thereon, or the  
17 weight of a truck or truck-tractor plus the weight of any trailers  
18 or semitrailers together with the cargo or payload transported  
19 thereon;

20           6. "Commercial trailer" means any trailer, as defined in  
21 Section 1-180 of this title, or semitrailer, as defined in Section  
22 1-162 of this title, when such trailer or semitrailer is used  
23 primarily for business or commercial purposes;

1           7. "Commercial trailer dealer" means any person, firm or  
2 corporation engaged in the business of selling any new and unused,  
3 or used, or both new and used commercial trailers;

4           8. "Commercial vehicle" means any vehicle over eight thousand  
5 (8,000) pounds combined laden weight used primarily for business or  
6 commercial purposes. Each motor vehicle being registered pursuant  
7 to the provisions of this section shall have the name of the  
8 commercial establishment or the words "Commercial Vehicle"  
9 permanently and prominently displayed upon the outside of the  
10 vehicle in letters not less than two (2) inches high. Such letters  
11 shall be in sharp contrast to the background and shall be of  
12 sufficient shape and color as to be readily legible during daylight  
13 hours, from a distance of fifty (50) feet while the vehicle is not  
14 in motion;

15           9. "Commission" or "Tax Commission" means the Oklahoma Tax  
16 Commission;

17           10. "Dealer" means any person, firm, association, corporation  
18 or trust who sells, solicits or advertises the sale of new and  
19 unused motor vehicles and holds a bona fide contract or franchise in  
20 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  
2 place in a state and any place in another state or between places in  
3 the same state through another state;

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

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

12           14. "Low-speed electrical vehicle" means any four-wheeled  
13 electrical vehicle that is powered by an electric motor that draws  
14 current from rechargeable storage batteries or other sources of  
15 electrical current and whose top speed is greater than twenty (20)  
16 miles per hour but not greater than twenty-five (25) miles per hour  
17 and is manufactured in compliance with the National Highway Traffic  
18 Safety Administration standards for low-speed vehicles in 49 C.F.R.  
19 571.500;

20           15. "Manufactured home" means a residential dwelling built in  
21 accordance with the National Manufactured Housing Construction and  
22 Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq., and  
23 rules promulgated pursuant thereto and the rules promulgated by the

1 Oklahoma Used Motor Vehicle and Parts Commission pursuant to Section  
2 582 of this title;

3 16. "Manufactured home dealer" means any person, firm or  
4 corporation engaged in the business of selling any new and unused,  
5 or used, or both new and used manufactured homes. Such information  
6 and a valid franchise letter as proof of authorization to sell any  
7 such new manufactured home product line or lines shall be attached  
8 to said application for a dealer license to sell manufactured homes.

9 "Manufactured home dealer" shall not include any person, firm or  
10 corporation who sells or contracts for the sale of the dealer's own  
11 personally titled manufactured home or homes. No person, firm or  
12 corporation shall be considered a manufactured home dealer as to any  
13 manufactured home purchased or acquired by such person, firm or  
14 corporation for purposes other than resale; provided, that the  
15 restriction set forth in this sentence shall not prevent an  
16 otherwise qualified person, firm or corporation from utilizing a  
17 single manufactured home as a sales office;

18 17. "Motor license agent" means any person appointed,  
19 designated or authorized by the Oklahoma Tax Commission to collect  
20 the fees and to enforce the provisions provided for in the Oklahoma  
21 Vehicle License and Registration Act;

22 18. "New vehicle" or "unused vehicle" means a vehicle which has  
23 been in the possession of the manufacturer, distributor or

1 wholesaler or has been sold only by the manufacturer, distributor or  
2 wholesaler to a dealer;

3 19. "Nonresident" means any person who is not a resident of  
4 this state;

5 20. "Off-road motorcycle" means any motorcycle, as defined in  
6 Section 1-135 of this title, when such motorcycle has been  
7 manufactured for and used exclusively off roads, highways and any  
8 other paved surfaces;

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

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

17 23. "Recreational vehicle" means every vehicle which is built  
18 on or permanently attached to a self-propelled motor chassis or  
19 chassis cab which becomes an integral part of the completed vehicle  
20 and is capable of being operated on the highways. In order to  
21 qualify as a recreational vehicle pursuant to this paragraph such  
22 vehicle shall be permanently constructed and equipped for human  
23 habitation, having its own sleeping and kitchen facilities,

1 including permanently affixed cooking facilities, water tanks and  
2 holding tank with permanent toilet facilities. Recreational vehicle  
3 shall not include manufactured homes or any vehicle with portable  
4 sleeping, toilet and kitchen facilities which are designed to be  
5 removed from such vehicle;

6 24. "Remanufactured vehicle" means a vehicle which has been  
7 assembled by a vehicle remanufacturer using a new body and which may  
8 include original, reconditioned, or remanufactured parts, and which  
9 is not a salvage, rebuilt, or junked vehicle as defined by  
10 paragraphs 1, 2, and 5, respectively, of subsection A of Section  
11 1105 of this title;

12 25. "Rental trailer" means all small or utility trailers or  
13 semitrailers constructed and suitable for towing by a passenger  
14 automobile and designed only for carrying property, when said  
15 trailers or semitrailers are owned by, or are in the possession of,  
16 any person engaged in renting or leasing such trailers or  
17 semitrailers for intrastate or interstate use or combined intrastate  
18 and interstate use;

19 26. "Special mobilized machinery" means special purpose  
20 machines or devices, either self-propelled or drawn as trailers or  
21 semitrailers, which derive no revenue from the transportation of  
22 persons or property, whose use of the highway is only incidental,  
23 and whose useful revenue producing service is performed at

1 destinations in an area away from the traveled surface of an  
2 established open highway;

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

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

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

14 30. "Travel trailer dealer" means any person, firm or  
15 corporation engaged in the business of selling any new and unused,  
16 or used, or both new and used travel trailers. Such information and  
17 a valid franchise letter as proof of authorization to sell any such  
18 new travel trailer product line or lines shall be attached to said  
19 application for a dealer license to sell travel trailers. "Travel  
20 trailer dealer" shall not include any person, firm or corporation  
21 who sells or contracts for the sale of his or her own personally  
22 titled travel trailer or trailers. No person, firm or corporation  
23 shall be considered as a travel trailer dealer as to any travel

1 trailer purchased or acquired by such person, firm or corporation  
2 for purposes other than resale;

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

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

11 33. "Utility vehicle" means a vehicle powered by an internal  
12 combustion engine, manufactured and used exclusively for off-highway  
13 use, traveling on four or more tires, equipped with seating for two  
14 or more people and a steering wheel. "Utility vehicle" does not  
15 include tractors or implements of husbandry;

16 34. "Vehicle" means any type of conveyance or device in, upon  
17 or by which a person or property is or may be transported from one  
18 location to another upon the avenues of public access within the  
19 state. "Vehicle" does not include bicycles, trailers except travel  
20 trailers and rental trailers, or implements of husbandry as defined  
21 in Section 1-125 of this title. All implements of husbandry used as  
22 conveyances shall be required to display the owner's driver's  
23 license number or license plate number of any vehicle owned by the

1 owner of the implement of husbandry on the rear of the implement in  
2 numbers not less than two (2) inches in height. The use of the  
3 owner's social security number on the rear of the implement of  
4 husbandry shall not be required; and

5 ~~34.~~ 35. "Vehicle remanufacturer" means a commercial entity  
6 which assembles remanufactured vehicles.

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

8 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY & HOMELAND SECURITY,  
9 dated 2-19-08 - DO PASS, As Coauthored.