

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2625

By: Jones

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5
6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.
8 2001, Section 562, as last amended by Section 7,
9 Chapter 182, O.S.L. 2009 (47 O.S. Supp. 2009, Section
10 562), which relates to definitions regarding motor
11 vehicle manufacturers, distributors and dealers;
12 modifying certain definition; adding definition; and
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 47 O.S. 2001, Section 562, as last
16 amended by Section 7, Chapter 182, O.S.L. 2009 (47 O.S. Supp. 2009,
17 Section 562), is amended to read as follows:

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

23 1. "Motor vehicle" means any motor-driven vehicle or
24 recreational vehicle required to be registered under the Oklahoma

1 Vehicle License and Registration Act except all-terrain vehicles,
2 utility vehicles, and motorcycles used exclusively for off-road use;

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

15 "Performance of authorized post-sale work pursuant to the warranty",
16 as used herein, means the rendition of services which are required
17 by the terms of the warranty that stands extended to the vehicle at
18 the time of its sale and are to be made in accordance with the
19 safety standards prescribed by the manufacturer. The term includes
20 premises or facilities at which a person engages only in the repair
21 of motor vehicles if repairs are performed pursuant to the terms of
22 a franchise and motor vehicle manufacturer's warranty. However, the
23 term shall not include premises or facilities at which a new motor
24 vehicle dealer or dealers within the area of responsibility of such

1 dealer or dealers as defined in the manufacturer's franchise
2 agreement of such dealer or dealers performs motor vehicle repairs
3 pursuant to the terms of a franchise and motor vehicle
4 manufacturer's warranty. For the purpose of Sections 561 through
5 567, 572, 578.1, 579 and 579.1 of this title, the terms "new motor
6 vehicle dealer" and "new motor vehicle dealership" shall be
7 synonymous. The term "new motor vehicle dealer" does not include:

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

17 3. "Motor vehicle salesperson" means any person who, for gain
18 or compensation of any kind, either directly or indirectly,
19 regularly or occasionally, by any form of agreement or arrangement,
20 sells or negotiates for the sale of any new motor vehicle for any
21 new motor vehicle dealer to any one or more third parties;

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

23 5. "Manufacturer" means any person, firm, association,
24 corporation or trust, resident or nonresident, who manufactures or

1 assembles new and unused motor vehicles or who engages in the
2 fabrication or assembly of motorized vehicles of a type required to
3 be registered in the State of Oklahoma;

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

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

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

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

23 10. "Distributor representative" means any person, firm,
24 association, corporation or trust and each officer and employee

1 thereof engaged as a representative of a distributor or distributor
2 branch of motor vehicles, for the purpose of making or promoting the
3 sale of its motor vehicles, or for supervising or contacting its
4 dealers or prospective dealers;

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

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

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

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

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

7 16. "Product" means new motor vehicles and new motor vehicle
8 parts;

9 17. "Service" means motor vehicle warranty repairs including
10 both parts and labor;

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

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

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

19 21. "Recreational vehicle" means a vehicular-type unit that is
20 self-propelled or towed by a consumer-owned tow vehicle, is
21 primarily designed to provide temporary living quarters for
22 recreational, camping, travel or seasonal use that has its own
23 motive power or is mounted on or towed by another vehicle, that
24 complies with all applicable federal vehicle regulations and does

1 not require a special-movement permit to legally use the highways.

2 Recreational vehicles do not include mobile homes, off-road
3 vehicles, snowmobiles, conversion vehicles, or any unit designed to
4 transport livestock. Recreational vehicles are no larger than four
5 hundred (400) square feet except for fifth wheels which are no
6 larger than four hundred thirty (430) square feet. The term
7 "recreational vehicle" includes the following units:

8 a. motor home, which is a motorized, self-propelled
9 vehicular unit designed to provide temporary living
10 quarters for recreational, camping or travel use. The
11 unit must contain at least four of the following
12 permanently installed independent life-support systems
13 which meet the National Fire Protection Association
14 standards for recreational vehicles:

15 (1) a cooking facility with an on-board fuel source,

16 (2) a portable water supply system that includes at

17 least a sink, faucet, and water tank with an

18 exterior service supply connection,

19 (3) a toilet with exterior evacuation,

20 (4) a gas or electric refrigerator,

21 (5) a heating or air conditioning system with an on-

22 board power or fuel source separate from the

23 vehicle engine, or

24

1 (6) a one-hundred-ten- to one-hundred-twenty-five-
2 volt electric power supply,

3 b. travel trailer, which is a vehicular unit, mounted on
4 wheels, designed to provide temporary living quarters
5 for recreational, camping or travel use of such size
6 and weight as to not require a special highway
7 movement permit when towed by a motorized vehicle,

8 c. fifth wheel trailer, which is a vehicular unit,
9 mounted on wheels, designed to provide temporary
10 living quarters for recreational, camping or travel
11 use of such size and weight as to not require a
12 special highway movement permit and designed to be
13 towed by a motorized vehicle that contains a towing
14 mechanism that is mounted above or forward of the rear
15 axle of the vehicle,

16 d. camping trailer, which is a vehicular unit that is
17 mounted on wheels and constructed with collapsible
18 partial side walls that fold for towing by another
19 vehicle and unfold at the campsite to provide
20 temporary living quarters for recreational, camping or
21 travel use, and

22 e. truck camper, which is a portable unit that is
23 constructed to provide temporary living quarters for
24 recreational, travel or camping use, consisting of a

1 roof, floor and sides, and is designed to be loaded
2 onto and unloaded from the back of a pickup truck.

3 SECTION 2. This act shall become effective November 1, 2010.
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