

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL NO. 1222

By: McCullough of the House

and

Sykes of the Senate

6  
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8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to motor vehicles; providing for  
11 powersports vehicle dealer license option; providing  
12 sales authority and restrictions; requiring dealer  
13 meet certain standards; amending 47 O.S. 2011,  
14 Section 562, which relates to new motor vehicles;  
15 modifying definition; amending 47 O.S. 2011, Section  
16 1102, which relates to motor vehicle registration;  
17 removing certain definitions; providing for  
18 codification; and providing an effective date.

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

20 SECTION 1. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 564.2 of Title 47, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. The Oklahoma Motor Vehicle Commission shall provide a new  
24 motor vehicle dealer license for powersports vehicle dealers. The  
Commission shall allow powersports vehicle dealers to sell  
powersports vehicles of the same manufacturer pursuant to one new

1 motor vehicle dealer license per manufacturer at each location  
2 licensed.

3 B. A powersports vehicle dealer license shall not require a  
4 powersports vehicle dealer to sell every type of powersports vehicle  
5 for each manufacturer licensed. Each powersports vehicle dealer  
6 license shall only allow the sale of the specific types of  
7 powersports vehicles of the same manufacturer which a powersports  
8 vehicle dealer has requested.

9 C. Powersports vehicle dealers licensed pursuant to this  
10 section shall be required to comply with all other new motor vehicle  
11 dealer standards pursuant to this title.

12 SECTION 2. AMENDATORY 47 O.S. 2011, Section 562, is  
13 amended to read as follows:

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

19 1. "Motor vehicle" means any motor-driven vehicle required to  
20 be registered under the Oklahoma Vehicle License and Registration  
21 Act, except recreational vehicles, as defined in the Recreational  
22 Vehicle Franchise Act, all-terrain vehicles, utility vehicles, and  
23 motorcycles used exclusively for off-road use, and vehicles sold by  
24 a retail implement dealer;

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

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

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

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

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

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

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

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

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

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

22 10. "Distributor representative" means any person, firm,  
23 association, corporation or trust and each officer and employee  
24 thereof engaged as a representative of a distributor or distributor

1 branch of motor vehicles, for the purpose of making or promoting the  
2 sale of its motor vehicles, or for supervising or contacting its  
3 dealers or prospective dealers;

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

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

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

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

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

5 16. "Product" means new motor vehicles and new motor vehicle  
6 parts;

7 17. "Service" means motor vehicle warranty repairs including  
8 both parts and labor;

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

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

13 20. "Factory" means a manufacturer, distributor, factory  
14 branch, distributor branch, factory representative or distributor  
15 representative, which manufactures or distributes vehicle products;

16 21. "Powersports vehicle" means motorcycles, scooters, mopeds,  
17 all-terrain vehicles, and utility vehicles;

18 22. "Powersports vehicle dealer" means any person, firm, or  
19 corporation who is in the business of selling any new and unused or  
20 used, or both new and used, powersports vehicles, except for retail  
21 implement dealers; and

22 23. "Retail implement dealer" means a business engaged  
23 primarily in the sale of farm tractors as defined in Section 1-118

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1 of this title or implements of husbandry as defined in Section 1-125  
2 of this title or a combination thereof.

3 SECTION 3. AMENDATORY 47 O.S. 2011, Section 1102, is  
4 amended to read as follows:

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

7 1. "All-terrain vehicle" means a vehicle manufactured and used  
8 exclusively for off-highway use traveling on four or more non-  
9 highway tires, and having a seat designed to be straddled by the  
10 operator and handlebars for steering;

11 2. "Carrying capacity" means the carrying capacity of a vehicle  
12 as determined or declared in tons of cargo or payload by the owner;  
13 provided, that such declared capacity shall not be less than the  
14 minimum tonnage capacity fixed, listed or advertised by the  
15 manufacturer of any vehicle;

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

19 4. "Chips and oil" or the term "road oil and crushed rock"  
20 means, with respect to materials authorized for use in the surfacing  
21 of roads or highways in this title or in any equivalent statute  
22 pertaining to road or highway surfacing in the State of Oklahoma,  
23 any asphaltic materials. Wherever chips and oil or road oil and  
24 crushed rock are authorized for use in the surfacing of roads or

1 highways in this state, whether by the Department of Transportation,  
2 or by the county commissioners, or other road building authority  
3 subject to the Oklahoma Vehicle License and Registration Act,  
4 asphaltic materials are also authorized for use in such surfacing  
5 and construction;

6 5. "Combined laden weight" means the weight of a truck or  
7 station wagon and its cargo or payload transported thereon, or the  
8 weight of a truck or truck-tractor plus the weight of any trailers  
9 or semitrailers together with the cargo or payload transported  
10 thereon;

11 6. "Commercial trailer" means any trailer, as defined in  
12 Section 1-180 of this title, or semitrailer, as defined in Section  
13 1-162 of this title, when such trailer or semitrailer is used  
14 primarily for business or commercial purposes;

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

18 8. "Commercial vehicle" means any vehicle over eight thousand  
19 (8,000) pounds combined laden weight used primarily for business or  
20 commercial purposes. Each motor vehicle being registered pursuant  
21 to the provisions of this section shall have the name of the  
22 commercial establishment or the words "Commercial Vehicle"  
23 permanently and prominently displayed upon the outside of the  
24 vehicle in letters not less than two (2) inches high. Such letters

1 shall be in sharp contrast to the background and shall be of  
2 sufficient shape and color as to be readily legible during daylight  
3 hours, from a distance of fifty (50) feet while the vehicle is not  
4 in motion;

5 9. "Commission" or "Tax Commission" means the Oklahoma Tax  
6 Commission;

7 10. "Dealer" means any person, firm, association, corporation  
8 or trust who sells, solicits or advertises the sale of new and  
9 unused motor vehicles and holds a bona fide contract or franchise in  
10 effect with a manufacturer or distributor of a particular make of  
11 new or unused motor vehicle or vehicles for the sale of same;

12 11. "Mini-truck" means a foreign-manufactured import or  
13 domestic-manufactured vehicle powered by an internal combustion  
14 engine with a piston or rotor displacement of one thousand cubic  
15 centimeters (1,000 cu cm) or less, which is sixty-seven (67) inches  
16 or less in width, with an unladen dry weight of three thousand four  
17 hundred (3,400) pounds or less, traveling on four or more tires,  
18 having a top speed of approximately fifty-five (55) miles per hour,  
19 equipped with a bed or compartment for hauling, and having an  
20 enclosed passenger cab;

21 12. "Interstate commerce" means any commerce moving between any  
22 place in a state and any place in another state or between places in  
23 the same state through another state;

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

6       14. "Local authorities" means every county, municipality or  
7 local board or body having authority to adopt police regulations  
8 under the Constitution and laws of this state;

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

17       16. "Manufactured home" means a residential dwelling built in  
18 accordance with the National Manufactured Housing Construction and  
19 Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq., and  
20 rules promulgated pursuant thereto and the rules promulgated by the  
21 Oklahoma Used Motor Vehicle and Parts Commission pursuant to Section  
22 582 of this title;

23       17. "Manufactured home dealer" means any person, firm or  
24 corporation engaged in the business of selling any new and unused,

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

14 18. "Medium-speed electrical vehicle" means any self-propelled,  
15 electrically powered four-wheeled motor vehicle, equipped with a  
16 roll cage or crush-proof body design, whose speed attainable in one  
17 (1) mile is more than thirty (30) miles per hour but not greater  
18 than thirty-five (35) miles per hour;

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

23 20. "New vehicle" or "unused vehicle" means a vehicle which has  
24 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 21. "Nonresident" means any person who is not a resident of  
4 this state;

5 22. "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 23. "Owner" means any person owning, operating or possessing  
10 any vehicle herein defined;

11 24. "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 25. ~~"Powersports vehicle" means motorcycles, scooters, mopeds,~~  
18 ~~all-terrain vehicles, and utility vehicles;~~

19 26. ~~"Powersports vehicle dealer" means any person, firm, or~~  
20 ~~corporation who is in the business of selling any new and unused or~~  
21 ~~used, or both new and used powersports vehicles except for those~~  
22 ~~dealers engaged principally in agricultural or farm implement sales;~~

23 27. "Rebodied vehicle" means a vehicle:  
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- 1 a. which has been assembled using a new body or new major  
2 component which is of the identical type as the  
3 original vehicle and is licensed by the manufacturer  
4 of the original vehicle and other original, new or  
5 reconditioned parts. For purposes of this paragraph,  
6 "new body or new major component" means a new body,  
7 cab, frame, front end clip or rear end clip, and  
8 b. which is not a salvage, rebuilt, or junked vehicle as  
9 defined by paragraph 1, 2, or 5 of subsection A of  
10 Section 1105 of this title, and  
11 c. for which the Tax Commission has assigned or will  
12 assign a new identifying number;

13 ~~28.~~ 26. "Recreational off-highway vehicle" means a vehicle  
14 manufactured and used exclusively for off-highway use, traveling on  
15 four or more non-highway tires, having non-straddle seating and  
16 which is steered by a steering wheel;

17 ~~29.~~ 27. "Recreational vehicle" means every vehicle which is  
18 built on or permanently attached to a self-propelled motor chassis  
19 or chassis cab which becomes an integral part of the completed  
20 vehicle and is capable of being operated on the highways. In order  
21 to 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,  
24 including permanently affixed cooking facilities, water tanks and

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

5 ~~30.~~ 28. "Remanufactured vehicle" means a vehicle which has been  
6 assembled by a vehicle remanufacturer using a new body and which may  
7 include original, reconditioned, or remanufactured parts, and which  
8 is not a salvage, rebuilt, or junked vehicle as defined by  
9 paragraphs 1, 2, and 5, respectively, of subsection A of Section  
10 1105 of this title;

11 ~~31.~~ 29. "Rental trailer" means all small or utility trailers or  
12 semitrailers constructed and suitable for towing by a passenger  
13 automobile and designed only for carrying property, when the  
14 trailers or semitrailers are owned by, or are in the possession of,  
15 any person engaged in renting or leasing such trailers or  
16 semitrailers for intrastate or interstate use or combined intrastate  
17 and interstate use;

18 ~~32.~~ 30. "Special mobilized machinery" means special purpose  
19 machines or devices, either self-propelled or drawn as trailers or  
20 semitrailers, which derive no revenue from the transportation of  
21 persons or property, whose use of the highway is only incidental,  
22 and whose useful revenue producing service is performed at  
23 destinations in an area away from the traveled surface of an  
24 established open highway;

1       ~~33.~~ 31. "State" means the State of Oklahoma;

2       ~~34.~~ 32. "Station wagon" means any passenger vehicle which does  
3 not have a separate luggage compartment or trunk and which does not  
4 have open beds, and has one or more rear seats readily lifted out or  
5 folded, whether same is called a station wagon or ranch wagon;

6       ~~35.~~ 33. "Travel trailer" means any vehicular portable structure  
7 built on a chassis, used as a temporary dwelling for travel,  
8 recreational or vacational use, and, when factory-equipped for the  
9 road, it shall have a body width not exceeding eight (8) feet and an  
10 overall length not exceeding forty (40) feet, including the hitch or  
11 coupling;

12       ~~36.~~ 34. "Travel trailer dealer" means any person, firm or  
13 corporation engaged in the business of selling any new and unused,  
14 or used, or both new and used travel trailers. Such information and  
15 a valid franchise letter as proof of authorization to sell any such  
16 new travel trailer product line or lines shall be attached to the  
17 application for a dealer license to sell travel trailers. "Travel  
18 trailer dealer" shall not include any person, firm or corporation  
19 who sells or contracts for the sale of his or her own personally  
20 titled travel trailer or trailers. No person, firm or corporation  
21 shall be considered as a travel trailer dealer as to any travel  
22 trailer purchased or acquired by such person, firm or corporation  
23 for purposes other than resale;

1       ~~37.~~ 35. "Used motor vehicle dealer" means "used motor vehicle  
2 dealer" as defined in Section 581 of this title;

3       ~~38.~~ 36. "Used vehicle" means any vehicle which has been sold,  
4 bargained, exchanged or given away, or used to the extent that it  
5 has become what is commonly known, and generally recognized, as a  
6 "secondhand" vehicle. This shall also include any vehicle other  
7 than a remanufactured vehicle, regardless of age, owned by any  
8 person who is not a dealer;

9       ~~39.~~ 37. "Utility vehicle" means a vehicle powered by an  
10 internal combustion engine, manufactured and used exclusively for  
11 off-highway use, equipped with seating for two or more people and a  
12 steering wheel, traveling on four or more wheels;

13       ~~40.~~ 38. "Vehicle" means any type of conveyance or device in,  
14 upon or by which a person or property is or may be transported from  
15 one location to another upon the avenues of public access within the  
16 state. "Vehicle" does not include bicycles, trailers except travel  
17 trailers and rental trailers, or implements of husbandry as defined  
18 in Section 1-125 of this title. All implements of husbandry used as  
19 conveyances shall be required to display the owner's driver license  
20 number or license plate number of any vehicle owned by the owner of  
21 the implement of husbandry on the rear of the implement in numbers  
22 not less than two (2) inches in height. The use of the owner's  
23 social security number on the rear of the implement of husbandry  
24 shall not be required; and

1        ~~41.~~ 39. "Vehicle remanufacturer" means a commercial entity  
2 which assembles remanufactured vehicles.

3        SECTION 4. This act shall become effective November 1, 2012.

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