

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1222

6 By: McCullough

7 COMMITTEE SUBSTITUTE

8 An Act relating to motor vehicles; providing for
9 powersports vehicle dealer license option; requiring
10 dealer meet certain standards; amending 47 O.S. 2001,
11 Section 562, as last amended by Section 7, Chapter
12 182, O.S.L. 2009 (47 O.S. Supp. 2010, Section 562),
13 which relates to new motor vehicles; modifying
14 definition; amending 47 O.S. 2001, Section 1102, as
15 last amended by Section 1, Chapter 312, O.S.L. 2010
16 (47 O.S. Supp. 2010, Section 1102), which relates to
17 motor vehicle registration; removing certain
18 definitions; providing for codification; and
19 providing an effective date.

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

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

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

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

3 B. Powersports vehicle dealers licensed pursuant to this
4 section shall be required to comply with all other new motor vehicle
5 dealer standards pursuant to this title.

6 SECTION 2. AMENDATORY 47 O.S. 2001, Section 562, as last
7 amended by Section 7, Chapter 182, O.S.L. 2009 (47 O.S. Supp. 2010,
8 Section 562), is amended to read as follows:

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

14 1. "Motor vehicle" means any motor-driven vehicle required to
15 be registered under the Oklahoma Vehicle License and Registration
16 Act except all-terrain vehicles, utility vehicles, and motorcycles
17 used exclusively for off-road use and sold by a retail implement
18 dealer;

19 2. "New motor vehicle dealer" means any person, firm,
20 association, corporation or trust not excluded by this paragraph who
21 sells, offers for sale, advertises to sell, leases or displays new
22 motor vehicles and holds a bona fide contract or franchise in effect
23 with a manufacturer or distributor authorized by the manufacturer to
24 make predelivery preparation of such vehicles sold to purchasers and

1 to perform post-sale work pursuant to the manufacturer's or
2 distributor's warranty. As used herein, "authorized predelivery
3 preparation" means the rendition by the dealer of services and
4 safety adjustments on each new motor vehicle in accordance with the
5 procedure and safety standards required by the manufacturer of the
6 vehicle to be made before its delivery to the purchaser.

7 "Performance of authorized post-sale work pursuant to the warranty",
8 as used herein, means the rendition of services which are required
9 by the terms of the warranty that stands extended to the vehicle at
10 the time of its sale and are to be made in accordance with the
11 safety standards prescribed by the manufacturer. The term includes
12 premises or facilities at which a person engages only in the repair
13 of motor vehicles if repairs are performed pursuant to the terms of
14 a franchise and motor vehicle manufacturer's warranty. However, the
15 term shall not include premises or facilities at which a new motor
16 vehicle dealer or dealers within the area of responsibility of such
17 dealer or dealers as defined in the manufacturer's franchise
18 agreement of such dealer or dealers performs motor vehicle repairs
19 pursuant to the terms of a franchise and motor vehicle
20 manufacturer's warranty. For the purpose of Sections 561 through
21 567, 572, 578.1, 579 and 579.1 of this title, the terms "new motor
22 vehicle dealer" and "new motor vehicle dealership" shall be
23 synonymous. The term "new motor vehicle dealer" does not include:

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

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 motor vehicle for any
14 new motor vehicle dealer to any one or more third parties;

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

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

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

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

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

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

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

23 11. "Franchise" means any contract or agreement between a motor
24 vehicle dealer and a manufacturer of a new motor vehicle or its

1 distributor or factory branch by which the dealer is authorized to
2 engage in the business of selling any specified make or makes of new
3 motor vehicles;

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

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

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

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

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1 16. "Product" means new motor vehicles and new motor vehicle
2 parts;

3 17. "Service" means motor vehicle warranty repairs including
4 both parts and labor;

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

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

9 20. "Factory" means a manufacturer, distributor, factory
10 branch, distributor branch, factory representative or distributor
11 representative, which manufactures or distributes vehicle products;

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

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

18 23. "Retail implement dealer" means a business engaged
19 primarily in the sale of farm tractors as defined in Section 1-118
20 of this title or implements of husbandry as defined in Section 1-125
21 of this title or a combination thereof.

22 SECTION 3. AMENDATORY 47 O.S. 2001, Section 1102, as
23 last amended by Section 1, Chapter 312, O.S.L. 2010 (47 O.S. Supp.
24 2010, Section 1102), is amended to read as follows:

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

3 1. "All-terrain vehicle" means a vehicle powered by an internal
4 combustion engine manufactured and used exclusively for off-highway
5 use traveling on four or more low-pressure tires, and having a seat
6 designed to be straddled by the operator and handlebars for
7 steering;

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

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

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

1 asphaltic materials are also authorized for use in such surfacing
2 and construction;

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

8 6. "Commercial trailer" means any trailer, as defined in
9 Section 1-180 of this title, or semitrailer, as defined in Section
10 1-162 of this title, when such trailer or semitrailer is used
11 primarily for business or commercial purposes;

12 7. "Commercial 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 commercial trailers;

15 8. "Commercial vehicle" means any vehicle over eight thousand
16 (8,000) pounds combined laden weight used primarily for business or
17 commercial purposes. Each motor vehicle being registered pursuant
18 to the provisions of this section shall have the name of the
19 commercial establishment or the words "Commercial Vehicle"
20 permanently and prominently displayed upon the outside of the
21 vehicle in letters not less than two (2) inches high. Such letters
22 shall be in sharp contrast to the background and shall be of
23 sufficient shape and color as to be readily legible during daylight

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1 hours, from a distance of fifty (50) feet while the vehicle is not
2 in motion;

3 9. "Commission" or "Tax Commission" means the Oklahoma Tax
4 Commission;

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

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

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

22 13. "Laden weight" means the combined weight of a vehicle when
23 fully equipped for use and the cargo or payload transported thereon;
24 provided, that in no event shall the laden weight be less than the

1 unladen weight of the vehicle fully equipped for use, plus the
2 manufacturer's rated carrying capacity;

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

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

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

20 17. "Manufactured home dealer" means any person, firm or
21 corporation engaged in the business of selling any new and unused,
22 or used, or both new and used manufactured homes. Such information
23 and a valid franchise letter as proof of authorization to sell any
24 such new manufactured home product line or lines shall be attached

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

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

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

20 20. "New vehicle" or "unused vehicle" means a vehicle which has
21 been in the possession of the manufacturer, distributor or
22 wholesaler or has been sold only by the manufacturer, distributor or
23 wholesaler to a dealer;

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1 21. "Nonresident" means any person who is not a resident of
2 this state;

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

7 23. "Owner" means any person owning, operating or possessing
8 any vehicle herein defined;

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

15 ~~25. "Powersports vehicle" means motorcycles, scooters, mopeds,~~
16 ~~all terrain vehicles, and utility vehicles;~~

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

21 27. "Recreational vehicle" means every vehicle which is built
22 on or permanently attached to a self-propelled motor chassis or
23 chassis cab which becomes an integral part of the completed vehicle
24 and is capable of being operated on the highways. In order to

1 qualify as a recreational vehicle pursuant to this paragraph such
2 vehicle shall be permanently constructed and equipped for human
3 habitation, having its own sleeping and kitchen facilities,
4 including permanently affixed cooking facilities, water tanks and
5 holding tank with permanent toilet facilities. Recreational vehicle
6 shall not include manufactured homes or any vehicle with portable
7 sleeping, toilet and kitchen facilities which are designed to be
8 removed from such vehicle;

9 ~~28.~~ 26. "Remanufactured vehicle" means a vehicle which has been
10 assembled by a vehicle remanufacturer using a new body and which may
11 include original, reconditioned, or remanufactured parts, and which
12 is not a salvage, rebuilt, or junked vehicle as defined by
13 paragraphs 1, 2, and 5, respectively, of subsection A of Section
14 1105 of this title;

15 ~~29.~~ 27. "Rental trailer" means all small or utility trailers or
16 semitrailers constructed and suitable for towing by a passenger
17 automobile and designed only for carrying property, when the
18 trailers or semitrailers are owned by, or are in the possession of,
19 any person engaged in renting or leasing such trailers or
20 semitrailers for intrastate or interstate use or combined intrastate
21 and interstate use;

22 ~~30.~~ 28. "Special mobilized machinery" means special purpose
23 machines or devices, either self-propelled or drawn as trailers or
24 semitrailers, which derive no revenue from the transportation of

1 persons or property, whose use of the highway is only incidental,
2 and whose useful revenue producing service is performed at
3 destinations in an area away from the traveled surface of an
4 established open highway;

5 ~~31.~~ 29. "State" means the State of Oklahoma;

6 ~~32.~~ 30. "Station wagon" means any passenger vehicle which does
7 not have a separate luggage compartment or trunk and which does not
8 have open beds, and has one or more rear seats readily lifted out or
9 folded, whether same is called a station wagon or ranch wagon;

10 ~~33.~~ 31. "Travel trailer" means any vehicular portable structure
11 built on a chassis, used as a temporary dwelling for travel,
12 recreational or vacation use, and, when factory-equipped for the
13 road, it shall have a body width not exceeding eight (8) feet and an
14 overall length not exceeding forty (40) feet, including the hitch or
15 coupling;

16 ~~34.~~ 32. "Travel trailer dealer" means any person, firm or
17 corporation engaged in the business of selling any new and unused,
18 or used, or both new and used travel trailers. Such information and
19 a valid franchise letter as proof of authorization to sell any such
20 new travel trailer product line or lines shall be attached to the
21 application for a dealer license to sell travel trailers. "Travel
22 trailer dealer" shall not include any person, firm or corporation
23 who sells or contracts for the sale of his or her own personally
24 titled travel trailer or trailers. No person, firm or corporation

1 shall be considered as a travel trailer dealer as to any travel
2 trailer purchased or acquired by such person, firm or corporation
3 for purposes other than resale;

4 ~~35.~~ 33. "Used motor vehicle dealer" means "used motor vehicle
5 dealer" as defined in Section 581 of this title;

6 ~~36.~~ 34. "Used vehicle" means any vehicle which has been sold,
7 bargained, exchanged or given away, or used to the extent that it
8 has become what is commonly known, and generally recognized, as a
9 "secondhand" vehicle. This shall also include any vehicle other
10 than a remanufactured vehicle, regardless of age, owned by any
11 person who is not a dealer;

12 ~~37.~~ 35. "Utility vehicle" means a vehicle powered by an
13 internal combustion engine, manufactured and used exclusively for
14 off-highway use, equipped with seating for two or more people and a
15 steering wheel, traveling on four or more wheels;

16 ~~38.~~ 36. "Vehicle" means any type of conveyance or device in,
17 upon or by which a person or property is or may be transported from
18 one 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 license
23 number or license plate number of any vehicle owned by the owner of
24 the implement of husbandry on the rear of the implement in numbers

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

4 ~~39.~~ 37. "Vehicle remanufacturer" means a commercial entity
5 which assembles remanufactured vehicles.

6 SECTION 4. This act shall become effective November 1, 2011.

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