STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 902 By: Marlatt of the Senate

and

Sanders of the House

COMMITTEE SUBSTITUTE

An Act relating to recreational vehicles; declaring legislative findings; creating the Recreational Vehicle Franchise Act; providing short title; defining terms; making certain acts unlawful; providing fee schedule for certain licenses; prohibiting sale of recreational vehicles by unlicensed manufacturers and dealers; requiring dealer agreements between manufacturers and dealers; providing conditions for the area of sales responsibility of dealers; prohibiting dealers from conducting sales outside the designated area of sales responsibility; providing for the off-premise sale of recreational vehicles under certain circumstances; requiring dealer agreements to include a designated principal; prohibiting imposition of certain dealer requirements; authorizing termination of or nonrenewal of dealer agreement under certain conditions; providing list of factors to be considered when determining good cause; requiring manufacturer to provide certain notice; providing notice procedures; authorizing dealer to require manufacturer to repurchase certain items after termination of dealer agreement; authorizing return of certain items; providing list of categories for good cause; authorizing dealers to terminate dealer agreement; requiring dealer to provide certain notice; providing list of conditions to be considered when determining good cause; providing list of categories for good cause; requiring manufacturer to repurchase certain items upon request of the dealer; allowing dealers to sell certain line-make vehicles

after termination of a dealer agreement; providing conditions to be met when ownership of a dealership has changed; providing conditions to be met when the death, incapacity or retirement of a dealer occurs; specifying obligations for warrantors; requiring certain notice; authorizing warrantors to conduct certain audits; providing procedures for warranty claims; prohibiting warrantors from certain acts; directing warrantor to indemnify dealers under certain circumstances; defining terms; prohibiting dealers from certain acts; directing dealers to indemnify warrantors under certain circumstances; providing procedures for dealers who receive damaged recreational vehicles; authorizing rejection of recreational vehicles under certain circumstances; prohibiting manufacturers from coercive practices; defining term; authorizing the Oklahoma Motor Vehicle Commission to deny, revoke or suspend licenses and assess fines under certain circumstances; allowing Commission to take certain action against applicant or licensee; requiring notice and hearing; setting manner of notice; providing additional notice to certain persons; granting certain powers for purpose of hearings; allowing witnesses; allowing civil actions to be filed for certain violations; providing for venue; requiring demand for mediation be served prior to filing suit; providing procedures for mediation; authorizing parties to request an injunction or other equitable relief; prohibiting courts from requiring bond; amending 21 O.S. 2001, Section 918, as amended by Section 1, Chapter 228, O.S.L. 2005 (21 O.S. Supp. 2010, Section 918), which relates to the sale of motor vehicles on Sunday; modifying statutory reference; amending 47 O.S. 2001, Sections 562, as last amended by Section 7, Chapter 182, O.S.L. 2009 and 564.1, as last amended by Section 3, Chapter 315, O.S.L. 2008 (47 O.S. Supp. 2010, Sections 562 and 564.1), which relate to definitions and licensing of motor vehicle manufacturers, distributors and dealers; providing statutory reference; deleting conditions concerning off-premise sales events by recreational vehicle dealers; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Legislature finds and declares that the distribution and sale of recreational vehicles in the State of Oklahoma vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and the public welfare, and in the exercise of its police powers, it is necessary to regulate and to license recreational vehicle manufacturers, distributors, representatives, dealers and salespersons of recreational vehicles doing business in Oklahoma, in order to prevent frauds, impositions and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this state, and in order to avoid undue control of the recreational vehicle dealer by the recreational vehicle manufacturing and distributing organizations, and in order to foster and keep alive vigorous and healthy competition by prohibiting unfair practices by which fair and honest competition is destroyed or prevented, and to protect the public against the creation or perpetuation of monopolies and practices detrimental to the public welfare, to prevent the practice of requiring the buying of special features, appliances and equipment not desired or requested by the dealer or purchaser, to prevent false and misleading advertising, to prevent unfair practices by recreational vehicle dealers,

manufacturers and distributing organizations, to promote the public safety and prevent disruption of the franchise system of distribution of recreation vehicles to the public and prevent deterioration of facilities for servicing recreational vehicles and keeping same safe and properly functioning, and prevent bankrupting of recreational vehicle dealers, who might otherwise be caused to fail because of such unfair practices.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596 of Title 47, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 19 of this act shall be known and may be cited as the “Recreational Vehicle Franchise Act”.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. “Area of sales responsibility” means a geographical area agreed to by a dealer and the manufacturer in a dealer agreement in which the dealer has the exclusive right to display or sell the new recreational vehicles of a manufacturer of a particular line-make to the public;

2. "Camping trailer" means a vehicular unit that is mounted on wheels and constructed with collapsible partial side walls that fold

for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use;

3. "Dealer" means any person, firm, corporation, or business entity licensed or required to be licensed pursuant to the provisions of this act to sell new recreational vehicles;

4. “Dealer agreement” means a written agreement or contract entered into between a manufacturer and a dealer that establishes the legal rights and obligations of the parties to that agreement or contract and pursuant to which the dealer is authorized to sell new recreational vehicles manufactured or distributed by the manufacturer;

5. “Established place of business” means a permanently enclosed building or structure, easily accessible to the public, with a paved or graveled lot for customer parking and for the showing and storage of vehicles. Established place of business shall not mean tents, temporary stands, lots, or other temporary quarters. The established place of business shall have a sign visible from the outside of the business which identifies the recreational vehicle dealership. The established place of business shall have an indoor office with public areas sufficient to conduct sales transactions with customers and have restroom facilities available for the public. The established place of business shall include a service and parts area, separated from the public areas, equipped with

tools, equipment, and replacement parts necessary for reasonably expected warranty and service needs;

6. “Factory campaign” means an effort by a warrantor to contact recreational vehicle owners or recreational vehicle dealers in order to address an issue concerning a recreational vehicle problem, defective part or equipment;

7. "Factory representative" means any officer or agent engaged as a representative of a manufacturer of recreational vehicles or a factory branch for the purpose of making or promoting the sale of recreational vehicles of the manufacturer or for supervising or contacting dealers or prospective dealers of the manufacturer;

8. “Family member” means any of the following:

a. a spouse of an individual,

b. a child, grandchild, parent, sibling, niece, or nephew of an individual, or

c. the spouse of a child, grandchild, parent, sibling, niece, or nephew of an individual;

9. "Fifth wheel trailer" means a vehicular unit mounted on wheels that is designed to provide temporary living quarters for recreational, camping or travel use of such size and weight as to not require a special highway movement permit and is designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the rear axle of the tow vehicle;

10. “Line-make” means a specific series of recreational vehicle products that meet all of the following:

a. are identified by a common series trade name or trademark,

b. are targeted to a particular market segment based on the decor, features, equipment, size, weight, and price range,

c. have dimensions and interior floor plans that distinguish the recreational vehicles from recreational vehicles that have substantially the same decor, features, equipment, weight, and price,

d. belong to a single, distinct classification of recreational vehicle product type that has a substantial degree of commonality in the construction of the chassis, frame, and body, and

e. are authorized for sale by the dealer in the dealer agreement;

11. “Manufacturer” means a person that manufactures or wholesales recreational vehicles or that distributes or wholesales recreational vehicles to dealers;

12. "Motor home" means a motorized, vehicular unit designed to provide temporary living quarters for recreational, camping or travel use;

13. “OMVC” means the Oklahoma Motor Vehicle Commission;

14. “Person” means an individual, partnership, corporation, limited liability company, association, trust, estate, or other legal entity;

15. “Proprietary part” means a recreational vehicle part manufactured by or for a manufacturer and sold exclusively by a manufacturer;

16. "Recreational vehicle" means a vehicle that:

a. is primarily designed as a vehicle that also provides temporary living quarters for noncommercial, recreational or camping use,

b. is built to the standards of the National Fire Protection Association for recreational vehicles,

c. has its own motive power or is mounted on or towed by another vehicle,

d. is regulated by the National Highway Traffic Safety Administration as a vehicle or vehicle equipment,

e. does not require a special highway use permit for operation on the highways, and

f. an individual can easily transport and set up on a daily basis.

Recreational vehicles includes motor homes, travel trailers, fifth-wheel travel trailers, folding camping trailers and truck campers;

17. "Recreational vehicle salesperson" means any person who, for gain or compensation of any kind, either directly or indirectly,

regularly or occasionally, by any form of agreement or arrangement, sells or negotiates for the sale of any new recreational vehicle for any new recreational vehicle dealer to any one or more third parties;

18. “Transient customer” means a person who:

a. owns a recreational vehicle,

b. is temporarily traveling through the area of sales responsibility of a dealer,

c. engages the dealer to perform service work on that recreational vehicle, and

d. requires repairs that relate to the safe operations of that recreational vehicle or, if not undertaken, are of a nature that would render that recreational vehicle unusable;

19. "Travel trailer" means a vehicular unit mounted on wheels that is designed to provide temporary living quarters for recreational, camping or travel use of such size and weight as to not require a special highway movement permit when towed by a motorized vehicle;

20. "Truck camper" means a portable unit that is constructed to provide temporary living quarters for recreational, camping or travel use and consists of a roof, floor and sides and is designed to be loaded onto and unloaded from the back of a pickup truck; and

21. "Warrantor" means a manufacturer or any other person that provides a warranty to the consumer in connection with a new recreational vehicle or parts, accessories, or components of a new recreational vehicle. The term does not include a person that provides a service contract, mechanical or other insurance, or an extended warranty sold for separate consideration by a dealer or other person not controlled by a warrantor.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person, firm, association, corporation or trust to engage in business as, or serve in the capacity of, or act as a new recreational vehicle dealer, or new recreational vehicle salesperson in this state without first obtaining a license as provided for by law.

B. The schedule of license fees to be charged and received by the OMVC for the licenses issued hereunder shall be as follows:

1. For each manufacturer or distributor of new recreational vehicles, an initial fee of Four Hundred Dollars ($400.00) with an annual renewal fee of Three Hundred Dollars ($300.00);

2. For each factory representative, an initial fee of One Hundred Dollars ($100.00) with an annual renewal fee of One Hundred Dollars ($100.00);

3. For each new motor home dealer, an initial fee of Three Hundred Dollars ($300.00) per franchise sold at each licensed location with an annual renewal fee of One Hundred Dollars ($100.00) per franchise sold at each licensed location;

4. For each fifth wheel trailer, travel trailer, camping trailer and truck camper dealer, an initial fee of Three Hundred Dollars ($300.00) per manufacturer represented at each licensed location with an annual renewal fee of One Hundred Dollars ($100.00) per manufacturer represented at each location; and

5. For each salesperson, an initial fee of Twenty-five Dollars ($25.00) with an annual renewal fee of Twenty-five Dollars ($25.00).

C. A manufacturer shall not sell or display for sale a recreational vehicle in this state except to a dealer or through a dealer that is licensed by the OMVC to sell recreational vehicles in the State of Oklahoma. The manufacturer shall also be required to have a dealer agreement with the dealer that meets the requirements of this act and is signed by both parties.

D. A dealer shall not sell or display for sale a new recreational vehicle in this state unless the dealer is licensed by the OMVC to sell recreational vehicles in the State of Oklahoma. The dealer shall also be required to have a dealer agreement with the manufacturer of the recreational vehicle that meets the requirements of this act and is signed by both parties.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. All of the following conditions shall apply to the area of sales responsibility of a dealer included in a dealer agreement between a manufacturer and a dealer:

1. The manufacturer shall designate in the dealer agreement the area of sales responsibility exclusively assigned to the dealer;

2. The manufacturer shall not change the area of sales responsibility of a dealer or establish another dealer for the same line-make in that area during the term of the dealer agreement; and

3. The area of sales responsibility may not be reviewed or changed without the consent of both parties until one (1) year after the execution of the dealer agreement.

B. A dealer may not conduct sales activity or display for sale recreational vehicles outside of its designated area of sales responsibility.

C. A dealer may sell off-premise within the area of sales responsibility of the dealer under the following circumstances:

1. At sanctioned recreational vehicle shows where the sales event is held off-premise and at least sixty-seven percent (67%) of the recreational vehicle dealers that are located within a sixty-mile radius of the location of the show participate in the show. A

sanctioned recreational vehicle show may be held only under the following conditions:

a. the sponsoring entity of the sales event shall obtain a permit from the OMVC at the rate of Two Hundred Dollars ($200.00) per event. The permit shall be for a period not to exceed ten (10) consecutive days,

b. dealer permits for a sanctioned recreational vehicle show described in this paragraph shall be obtained from the OMVC at a rate of Fifteen Dollars ($15.00) for each motor home per sanctioned recreational vehicle show,

c. new recreational vehicle dealers whose manufacturer-approved area of responsibility includes the event location shall be eligible to participate in the sanctioned recreational vehicle show,

d. new recreational vehicle dealers shall obtain written approval from the manufacturer or distributor to participate in the sanctioned recreational vehicle show, and

e. the sanctioned recreational vehicle show shall be conducted within municipal, county, or state-owned or controlled facilities or within the grounds of any county, district, or state fair; and

2. At nonsanctioned recreational vehicle shows where one or more dealers may sell recreational vehicles off-premise under the following conditions:

a. dealer permits for a nonsanctioned recreational vehicle show described in this paragraph shall be obtained from the OMVC at a rate of Fifteen Dollars ($15.00) for each recreational vehicle per nonsanctioned recreational vehicle show,

b. the location of the nonsanctioned recreational vehicle show shall be within the manufacturer-approved area of responsibility,

c. the nonsanctioned recreational vehicle show shall occur no more than five (5) consecutive days per event, excluding county, district, or state fairs,

d. each dealer may participate in no more than eight nonsanctioned recreational vehicle shows per calendar year, and

e. nonsanctioned recreational vehicle shows shall be held on privately owned property no closer than two and one-half (2 1/2) miles to any other nonparticipating recreational vehicle dealer; provided, however a nonsanctioned recreational vehicle show may be held on county or municipally owned property with no mileage barrier restriction.

D. A dealer may display a recreational vehicle within the designated area of responsibility of the dealer for promotional purposes. At an off-premise display event, no sales activities shall be conducted including, but not limited to, negotiations, financing and accepting credit applications. Sales or finance personnel shall not be permitted to participate at an off-premise display event. A permit for the off-premise display event shall not be required.

E. A dealer agreement shall include a designated principal of the dealer. A dealer agreement may identify a family member as the successor of the principal or include a succession plan of the dealer. A dealer may at any time change a designation or succession plan made in the dealer agreement by providing written notice to the manufacturer.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

In a renewal of a dealer agreement, the manufacturer may not impose on the dealer stocking requirements or retail sales targets that are inconsistent with market growth or contraction in the area of sales responsibility of the dealer.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A manufacturer, directly or through any officer, agent, or employee, may terminate or not renew a dealer agreement without good cause. If the manufacturer terminates or does not renew the dealer agreement without good cause, the manufacturer shall comply with the provisions of subsections D and E of this section. If the manufacturer terminates or does not renew the dealer agreement with good cause, the provisions of subsections D and E of this section shall not apply.

B. A manufacturer has the burden of showing good cause for terminating or not renewing a dealer agreement. All of the following factors shall be considered in determining whether there is good cause for a proposed termination or nonrenewal of a dealer agreement by a manufacturer:

1. The extent of the penetration of the dealer in the relevant market area;

2. The extent and quality of the service of the dealer under recreational vehicle warranties;

3. The nature and extent of the investment of the dealer in business of the dealer;

4. The adequacy of the service facilities, equipment, parts, supplies, and personnel of the dealer;

5. The effect of the proposed action on the community;

6. Whether the dealer fails to follow agreed-upon procedures or standards related to the overall operation of the dealership; and

7. The performance by the dealer under the terms of dealer agreement.

C. Except as otherwise provided in this section, a manufacturer shall provide a dealer with written notice of a termination or nonrenewal of a dealer agreement. All of the following conditions apply to a notice described in this subsection:

1. Except as provided in paragraph 4 or 5 of this subsection, the manufacturer shall provide written notice at least ninety (90) days before the effective date of the termination or nonrenewal of the dealer agreement;

2. The notice shall state all of the reasons for the termination or nonrenewal of the dealer agreement;

3. The notice shall state that if the dealer provides to the manufacturer a written notification of the intent of the dealer to cure all claimed deficiencies within thirty (30) days after the dealer receives the notice, the dealer shall have one hundred twenty (120) days after the date of the notice to correct the claimed deficiencies. If all of the deficiencies are corrected within the one-hundred-twenty-day time period, the notice shall be deemed void and the manufacturer shall not terminate or not renew the dealer agreement because of the claimed deficiencies stated in the notice. If the dealer does not provide a notification of intent to cure deficiencies within the thirty-day time period, the termination or

nonrenewal of the dealer agreement shall take effect sixty (60) days after the dealer received the notice from the manufacturer;

4. A manufacturer may reduce the notice period described in paragraph 1 of this subsection from ninety (90) days to thirty (30) days and shall not be required to allow the dealer an opportunity to correct the deficiencies if the grounds for termination or nonrenewal of the dealer agreement by the manufacturer are any of the specific categories of good cause described in subsection F of this section; and

5. A manufacturer shall not be required to provide notice or an opportunity to correct deficiencies under this subsection if the grounds for termination or nonrenewal of the dealer agreement by the manufacturer includes one of the following:

a. the dealer becomes insolvent,

b. the dealer is bankrupt, or

c. the dealer makes an assignment for the benefit of creditors.

D. If a manufacturer terminates or does not renew a dealer agreement for good cause under this section the dealer, at its option, may require the manufacturer to repurchase any of the following from the dealer:

1. All new, untitled recreational vehicles that were acquired from the manufacturer within eighteen (18) months before the effective date of the notice of termination of the dealer agreement

that have not been used, except for demonstration purposes and have not been altered or damaged, may be repurchased at one hundred percent (100%) of the net invoice cost of the recreational vehicles, including transportation, less applicable rebates and discounts to the dealer;

2. All current and undamaged accessories and proprietary parts sold to the dealer for resale within the eighteen (18) months prior to the effective date of the termination of the dealer agreement that are accompanied by the original invoice may be repurchased at one hundred five percent (105%) of the original net price paid to the manufacturer to compensate the dealer for handling, packing, and shipping the accessories and parts; and

3. Any properly functioning diagnostic equipment, special tools, current signage, and other equipment and machinery, purchased by the dealer within the five (5) years prior to the effective date of the termination of the dealer agreement at the request of the manufacturer, if such equipment or machinery cannot be used in the normal course of the ongoing business of the dealer, may be repurchased at one hundred percent (100%) of the net cost of the dealer, plus freight, destination, delivery, and distribution charges and sales taxes.

E. The dealer shall promptly return or arrange for the return of all of the items the manufacturer is required to repurchase under subsection D of this section at the expense of the manufacturer.

F. As used in this section, "good cause" includes, but is not limited to, any of the following:

1. A conviction of a felony or a plea of guilty or nolo contendere to a felony by a dealer or an owner of a dealership of a crime that was committed during the time frame of the current dealer agreement; provided, there is full disclosure, in writing, of any felony conviction or plea of guilty or nolo contendere to any such felony crime that occurred within ten (10) years of entering into such dealer agreement;

2. Abandonment or permanent closing of the business operations of a dealer for twenty-one (21) consecutive business days without contacting the manufacturer prior to the closing unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the dealer has no control;

3. A material misrepresentation to a manufacturer by a dealer that severely affects the business relationship between the dealer and the manufacturer;

4. Suspension or revocation of the license of a dealer or refusal to renew the license of the dealer by the OMVC;

5. A material violation of any of the provisions of the Recreational Vehicle Franchise Act by a dealer; or

6. The dealer becomes insolvent, is bankrupt, or makes an assignment for the benefit of creditors.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A dealer may terminate a dealer agreement with a manufacturer with or without good cause. If the dealer terminates or does not renew the dealer agreement with good cause, the manufacturer shall comply with the provisions of paragraphs D and E of this section. If the dealer terminates or does not renew the dealer agreement without good cause, the provisions of paragraphs D and E of this section shall not apply. A dealer that terminates a dealer agreement shall provide the manufacturer with written notice at least ninety (90) days prior to the effective date of the termination of the dealer agreement.

B. All of the following conditions shall apply to a termination of a dealer agreement under this section for good cause:

1. The notice described in subsection A of this section shall state all reasons for the proposed termination;

2. The notice described in subsection A of this section shall state that if the manufacturer provides to the dealer a written notification of intent to cure all claimed deficiencies within thirty (30) days after the manufacturer receives the notice, the manufacturer shall have one hundred twenty (120) days after the date of the notice to correct the deficiencies. If all of the deficiencies are corrected within the one-hundred-twenty-day period,

the notice shall be deemed void and the dealer shall not terminate the dealer agreement because of the claimed deficiencies stated in the notice. If the manufacturer does not provide a notification of intent to cure deficiencies within thirty (30) days of receiving the notice to terminate the dealer agreement, the termination shall take effect sixty (60) days after the manufacturer received from the dealer the notice to terminate;

3. A dealer may reduce the notice period described in subsection A of this section from ninety (90) days to thirty (30) days and shall not be required to allow the manufacturer an opportunity to correct the deficiencies if the grounds for termination or nonrenewal of the dealer agreement by the dealer are any of the specific categories of good cause described in subsection C of this section; and

4. A dealer is not required to provide notice or an opportunity to correct deficiencies under this section if the grounds for termination or nonrenewal of the dealer agreement by the dealer includes one of the following:

a. the manufacturer becomes insolvent,

b. the manufacturer is bankrupt, or

c. the manufacturer makes an assignment for the benefit of creditors.

C. The dealer has the burden of showing good cause. Any one of the following categories is considered good cause for a proposed termination of a dealer agreement by a dealer:

1. A conviction of a felony or a plea of guilty or nolo contendere to a felony by a manufacturer of a crime that was committed during the time frame of the current dealer agreement; provided, there is full disclosure, in writing, of any felony conviction or plea of guilty or nolo contendere to any such felony crime that occurred within ten (10) years of entering into such dealer agreement;

2. Abandonment or permanent closing of the business operations of the manufacturer for twenty-one (21) consecutive business days without contacting the dealer prior to the closing unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the manufacturer has no control;

3. A material misrepresentation to the dealer by the manufacturer that severely affects the business relationship between the dealer and manufacturer;

4. A material violation of any of the provisions of the Recreational Vehicle Franchise Act by the manufacturer;

5. A material breach of the dealer agreement by the manufacturer; or

6. The manufacturer becomes insolvent, is bankrupt, or makes an assignment for the benefit of creditors.

D. If the manufacturer fails to cure any claimed deficiencies pursuant to subsection B of this section, the dealer may require that the manufacturer repurchase any of the following from the dealer:

1. All new, untitled recreational vehicles that were acquired from the manufacturer within eighteen (18) months prior to the effective date of the notice of termination of the dealer agreement that have not been used, except for demonstration purposes, and that have not been altered or damaged, may be repurchased at one hundred percent (100%) of the net invoice cost of the recreational vehicles, including transportation, less applicable rebates and discounts to the dealer;

2. All current and undamaged accessories and proprietary parts sold to the dealer for resale within eighteen (18) months prior to the effective date of the termination of the dealer agreement that are accompanied by the original invoice may be repurchased at one hundred five percent (105%) of the original net price paid to the manufacturer to compensate the dealer for handling, packing, and shipping the accessories and parts; and

3. Any properly functioning diagnostic equipment, special tools, current signage, and other equipment and machinery, purchased by the dealer within five (5) years prior to the effective date of the termination of the dealer agreement if such equipment or machinery cannot be used in the normal course of the ongoing

business of the dealer, may be repurchased at one hundred percent (100%) of the net cost of the dealer, plus freight, destination, delivery, and distribution charges and sales taxes.

E. The dealer shall promptly return or arrange for the return of all of the items the manufacturer is required to repurchase under subsection D of this section at the expense of the manufacturer.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

The OMVC may not prohibit a dealer from selling the remaining in stock inventory of a particular line-make after a dealer agreement has been terminated or not renewed pursuant to the provisions of Section 7 or 8 of this act. If recreational vehicles of a line-make are not returned or required to be returned to the manufacturer, the dealer may continue to sell all line-makes that were subject to the dealer agreement and are currently in stock until those line-makes are no longer in the dealer inventory.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. All of the following conditions shall apply to a proposed sale of the business assets, transfer of the stock, or other transaction that will result in a change of ownership of a dealer, except a transaction described in subsection B of this section:

1. The dealer shall provide written notice to the manufacturer at least ninety (90) days prior to the proposed closing of the transaction;

2. If the dealer is not in breach of the dealer agreement or in violation of the provisions of this act at the time the dealer provides the notice described in paragraph 1 of this subsection, the manufacturer shall not object to the proposed transaction, unless the prospective transferee meets one or more of the following:

a. the prospective transferee was previously a party to a dealer agreement with the manufacturer that the manufacturer terminated,

b. in the preceding ten (10) years, the prospective transferee was convicted of a felony crime or any crime of fraud, deceit or moral turpitude,

c. the prospective transferee does not have an application for a recreational vehicle dealer license pending with the OMVC or a tentative dealer agreement with a recreational vehicle manufacturer to conduct business as a dealer in this state,

d. the prospective transferee does not have an active line of credit sufficient to purchase recreational vehicles from the manufacturer according to the terms of the dealer agreement, or

e. in the preceding ten (10) years, the prospective transferee was bankrupt or insolvent, made a general assignment for the benefit of creditors, or a receiver, trustee, or conservator was appointed to take possession of the business or property of the prospective transferee;

3. If the manufacturer objects to the proposed transaction, the manufacturer shall give written notice of an objection, including the reasons by the manufacturer for objecting, to the dealer within thirty (30) days after receiving the notice described in paragraph 1 of this subsection. If the manufacturer does not give notice of an objection within the thirty-day time period, the proposed transaction shall be considered approved by the manufacturer; and

4. For purposes of paragraph 3 of this subsection, the manufacturer has the burden of demonstrating why the manufacturer objects to the proposed transaction.

B. All of the following conditions apply concerning the death, incapacity, or retirement of the designated principal of a dealer:

1. The manufacturer shall provide the dealer an opportunity to designate, in writing, a family member as a successor to the dealer in the event of the death, incapacity, or retirement of the designated principal;

2. The manufacturer shall not prevent or refuse to honor the succession to a dealership by a family member of the deceased,

incapacitated, or retired designated principal of that dealer unless the manufacturer previously provided written notice to the dealer of any objections to the succession plan of the dealer within thirty (30) days after receiving the succession plan of the dealer or any modification of the succession plan of the dealer;

3. Except as provided in paragraph 5 of this subsection, unless the dealer is in breach of the dealer agreement, a manufacturer shall not object to the succession to a dealership by a family member of the deceased, incapacitated, or retired designated principal, unless the successor meets one or more of the following:

a. in the preceding ten (10) years, the successor was convicted of a felony crime or any crime of fraud, deceit or moral turpitude,

b. in the preceding ten (10) years, the successor was bankrupt, insolvent, or made an assignment for the benefit of creditors,

c. the successor was previously a party to a dealer agreement with the manufacturer that the manufacturer terminated for a breach of a dealer agreement,

d. the successor does not have an active line of credit sufficient to purchase recreational vehicles from the manufacturer according to the terms of the dealer agreement, or

e. the successor does not have an application for a recreational vehicle dealer license pending with the OMVC or a tentative dealer agreement with a recreational vehicle manufacturer to conduct business as a dealer in this state;

4. The manufacturer has the burden of proof regarding any objection to the succession to a dealership by a family member of the deceased, incapacitated, or retired designated principal; and

5. The consent of the manufacturer shall be required for the succession to a dealership by a family member of the deceased, incapacitated, or retired designated principal if the succession involves a relocation of the business or an alteration of the terms and conditions of the dealer agreement.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A warrantor has all of the following obligations to each dealer engaged in the sale or lease of products that are covered by a warranty from that warrantor:

1. To specify in writing to the dealer the obligations of the dealer, if any, for preparation, delivery, and warranty service on its products;

2. To compensate the dealer for warranty service required of the dealer by the warrantor;

3. To provide the dealer with a schedule of compensation the warrantor will pay for warranty work and the time allowances of the warrantor for the performance of that work. All of the following conditions apply to the schedule of compensation required under this paragraph:

a. reasonable compensation for diagnostic work and warranty labor,

b. time allowances in the schedule for the diagnosis and performance of warranty labor shall be reasonable for the work to be performed, and

c. the compensation of a dealer for warranty labor shall be the actual retail labor rates charged by the dealer in the community in which the dealer is doing business;

4. To reimburse the dealer for warranty parts at actual wholesale cost, plus a minimum thirty percent (30%) handling charge and any freight costs to return warranty parts to the warrantor; and

5. To deny dealer claims for warranty compensation only for cause, including, but not limited to, performance of nonwarranty repairs, material noncompliance with the published policies and procedures of the warrantor, lack of material documentation of claims, fraud, or misrepresentation.

B. A warrantor may conduct audits of the records of a dealer that sells or leases its warranted products on a reasonable basis.

C. A dealer shall submit warranty claims to a warrantor within sixty (60) days after completing all warranty work on a warranted product.

D. A dealer shall notify the warrantor in writing if the dealer is unable to perform material or repetitive warranty repairs as soon as is reasonably possible.

E. A warrantor shall approve or disapprove a warranty claim on a warranted product in writing within thirty (30) days after the date the dealer submits the claim, if the claim is submitted in the manner and in the form prescribed by the warrantor. If a claim that is properly submitted is not specifically disapproved in writing by a warrantor within the thirty-day time period, the claim shall be considered approved by the warrantor and the warrantor shall pay the amount of the claim to the dealer within sixty (60) days after the dealer submitted the claim.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.10 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A warrantor shall not do any of the following:

1. Fail to perform all of its warranty obligations with respect to a warranted product;

2. In any written notice of a factory campaign to recreational vehicle owners and dealers, fail to include the expected date by which necessary parts and equipment, including tires and chassis or

chassis parts if required, will be available to dealers to perform the factory campaign work. The warrantor shall provide sufficient parts to the dealer to perform the factory campaign work. If the number of parts provided to the dealer pursuant to this paragraph exceed the requirements of the dealer to perform the factory campaign work, the dealer may return unused parts to the warrantor for credit after completion of the factory campaign;

3. Subject to the provisions of Section 14 of this act, fail to compensate a dealer for authorized repairs of warranted products damaged during the manufacturing process or damaged while in transit to the dealer if the warrantor selected the carrier;

4. Fail to compensate a dealer for authorized warranty service under this section in accordance with the applicable schedule of compensation provided to the dealer pursuant to Section 11 of this act if the warranty service is performed in a timely and competent manner;

5. Intentionally misrepresent in any way to a purchaser of a warranted product that any warranty concerning the manufacture, performance, or design of the warranted product is made by the dealer either as a warrantor or cowarrantor; or

6. Require a dealer to make warranties to customers in any manner related to the manufacture of a warranted product.

B. A warrantor shall indemnify the dealer for any money paid or costs incurred by a dealer in connection with a claim or cause of

action asserted against the dealer to the extent that payment or costs incurred are based on the negligence or intentional misconduct of the warrantor. A warrantor shall not limit the obligation to indemnify described in this subsection by agreement with the dealer. The dealer shall provide a warrantor with a copy of any claim or complaint in which an allegation described in this subsection is made within ten (10) days after receiving that claim or complaint.

C. As used in this section and Section 13 of this act:

1. "Products" mean new recreational vehicles or parts, accessories, or components of new recreational vehicles; and

2. "Warranted products" mean products subject to a warranty from a specific warrantor.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.11 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A dealer shall not do any of the following:

1. If a transient customer requests service work on a recreational vehicle of a line-make that the dealer is authorized to display and sell, fail to perform any warranty service work authorized by a warrantor in a reasonably competent and timely manner if failure to make such repairs would result in a safety related issue or might render the recreational vehicle unusable;

2. Make a fraudulent warranty claim to a warrantor; or

3. Misrepresent the terms of any warranty.

B. A dealer shall indemnify a warrantor for any money paid or costs incurred by a warrantor in connection with a claim or cause of action asserted against the warrantor to the extent that payment or costs incurred are based on the negligence or intentional misconduct of the dealer. A dealer shall not limit the obligation to indemnify described in this subsection by agreement with the warrantor. The warrantor shall provide a dealer with a copy of any claim or complaint in which an allegation described in this subsection is made within ten (10) days after receiving the claim or complaint.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.12 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. All of the following conditions apply if a new recreational vehicle is damaged before it is shipped to a dealer, or is damaged in transit to the dealer and the manufacturer selected the carrier or means of transportation:

1. The dealer shall notify the manufacturer of the damage within the time period specified in the dealer agreement and do one of the following:

a. in the notice, request authorization to replace the components, parts, and accessories damaged, or otherwise correct the damage, from the manufacturer, or

b. reject the recreational vehicle within the time period specified in the dealer agreement;

2. If the manufacturer refuses or fails to authorize repair of the damage within ten (10) days after receiving notice under paragraph 1 of this subsection or if the dealer rejects the recreational vehicle because of the damage within the time period specified in the dealer agreement, ownership of the recreational vehicle reverts to the manufacturer; and

3. The dealer shall exercise due care in the custody of the damaged recreational vehicle; provided, the dealer shall have no financial or other obligation with respect to that recreational vehicle.

B. A dealer agreement shall include a time period for inspection and rejection of damaged recreational vehicles under subsection A of this section that is not less than two (2) business days after the physical delivery of the recreational vehicle to the dealer.

C. If a dealer determines that a new recreational vehicle has an unreasonable number of miles on the odometer at the time the recreational vehicle is delivered to the dealer, the dealer may reject the recreational vehicle and said ownership of the recreational vehicle shall revert to the manufacturer. However, if the number of miles on the odometer of the recreational vehicle is less than the sum of the distance between the dealer and the factory

of the manufacturer or point of distribution plus one hundred (100) miles, the dealer may not consider the number of miles on the odometer unreasonable for purposes of this subsection.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.13 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A manufacturer shall not coerce or attempt to coerce a dealer to purchase a product or service that the dealer did not order.

B. A manufacturer shall not coerce or attempt to coerce a dealer to enter into any agreement with the manufacturer.

C. A manufacturer shall not coerce or attempt to coerce a dealer to enter into an agreement with the manufacturer or any other person that requires the dealer to submit any disputes by the dealer to binding arbitration or otherwise waive the rights or responsibilities of the dealer under the provisions of this act.

D. As used in this section, the term "coerce" includes, but is not limited to:

1. Threatening to terminate or not renew a dealer agreement without good cause;

2. Threatening to withhold line-makes or other product lines the dealer is entitled to display and sell under the dealer agreement; or

3. Delay delivery of recreational vehicles as an inducement to amend the dealer agreement.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.14 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Motor Vehicle Commission may deny an application for a license, revoke or suspend a license, impose a fine against a manufacturer or distributor in an amount not to exceed Ten Thousand Dollars ($10,000.00) per occurrence, or impose a fine against a dealer in an amount not to exceed One Thousand Dollars ($1,000.00) per occurrence if any provision of the Recreational Vehicle Franchise Act of Title 47 of the Oklahoma Statutes is violated or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant in any application for any license under the provisions of the Recreational Vehicle Franchise Act;

2. For any material misstatement made by an applicant in any application for any license under the provisions of the Recreational Vehicle Franchise Act;

3. For any failure to comply with any provision of the Recreational Vehicle Franchise Act or any rule promulgated by the OMVC under authority vested to the OMVC pursuant to the Recreational Vehicle Franchise Act;

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

5. Being a new recreational vehicle dealer or new recreational vehicle salesperson who:

a. has required a purchaser of a new recreational vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories or equipment not desired or requested by the purchaser and installed by the dealer,

b. uses any false or misleading advertising in connection with business as a new recreational vehicle dealer or vehicle salesperson,

c. has committed any unlawful act which resulted in the revocation of any similar license in another state,

d. has failed or refused to perform any written agreement with any retail buyer involving the sale of a recreational vehicle,

e. has been convicted of a crime involving moral turpitude,

f. has committed a fraudulent act in selling, purchasing or otherwise dealing in new recreational vehicles or has misrepresented the terms and conditions of a sale, purchase or contract for sale or purchase of a new

recreational vehicle or any interest therein including an option to purchase such vehicle, or

g. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;

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

7. Being a new recreational vehicle dealer who:

a. does not have an established place of business,

b. does not provide for a suitable repair shop separate from the display room with ample space to repair or recondition one or more recreational vehicles at the same time and equipped with tools, equipment, and replacement parts as may be necessary for the servicing of recreational vehicles in such a manner as to make such vehicles comply with the safety laws of this state and properly fulfill the warranty obligation of the dealer or manufacturer,

c. does not hold a dealer agreement in effect with a manufacturer or distributor of new or unused recreational vehicles for the sale of the same and is not authorized by the manufacturer or distributor to render predelivery preparation of such vehicles sold to purchasers and perform authorized postsale work

pursuant to the warranty of the manufacturer or distributor,

d. employs unlicensed salespersons or employs or utilizes the services of used recreational vehicle lots, dealers or other unlicensed persons in connection with the sale of new recreational vehicles; or

8. Being a factory that has:

a. induced or attempted to induce by means of coercion or intimidation any new recreational vehicle dealer:

(1) to accept delivery of any recreational vehicle or vehicles, parts or accessories for recreational vehicles, or any other commodities including advertising material which shall not have been ordered by the new recreational vehicle dealer,

(2) to order or accept delivery of any recreational vehicle with special features, appliances, accessories or equipment not included in the list price of the recreational vehicles as publicly advertised by the manufacturer of the recreational vehicle, or

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

b. induced under threat or discrimination by the withholding from delivery to a recreational vehicle dealer certain models of recreational vehicles, changing or amending unilaterally the allotment of recreational vehicles of a dealer or withholding and delaying delivery of such vehicles out of the ordinary course of business, in order to induce a dealer by such coercion to participate or contribute to any local or national advertising fund controlled directly or indirectly by the factory or for any other purposes including contests, giveaways, other sales promotional devices, or change of quotas in any sales contest, or

c. required recreational vehicle dealers, as a condition of receiving the vehicle allotment of the dealer, to order a certain percentage of the recreational vehicles with optional equipment not specified by the new recreational vehicle dealer; however, nothing in this paragraph shall prohibit a factory from supporting an advertising association which is open to all dealers on the same basis.

The Commission may deny any application for license, or suspend or revoke a license issued, or impose a fine, only after a hearing for which the applicant or licensee affected shall be given at least ten (10) days' written notice specifying the reason for denying the

applicant a license, or, in the case of a revocation or suspension or imposition of a fine, the offense which the licensee is alleged to have committed. The notice may be served as provided by law for the service of notices, or mailing a copy by registered mail to the last-known residence or business address of the applicant or licensee. The hearing on alleged violations shall be at such time and place as the Commission may prescribe and the aforementioned notice shall further specify the time and place. If the applicant or licensee is a motor vehicle salesperson, factory representative or distributor representative, the Commission shall in like manner additionally notify the person, firm, association, corporation or trust with whom he or she is associated, or in whose association he or she is about to enter. The Commission shall have the power to compel the production of all records, papers and other documents which may be deemed relevant to the proceeding bearing upon the complaints. The Commission shall have the power to subpoena and bring before it any person, or take testimony of any person by deposition, with the same fees and mileage and in the same manner as prescribed in the proceedings before courts of the state in civil cases. Any party to the hearing shall have the right to the attendance of witnesses in his or her behalf upon designating to the Commission the person or persons sought to be subpoenaed.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.15 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A dealer, manufacturer, or warrantor injured by another party who has violated a provision of this act may bring a civil action in court for the recovery of actual damages. The court shall award attorney fees and costs to the prevailing party in a civil action under this section.

B. Venue for a civil action filed pursuant to this section shall be the county in which the business of the dealer is located. In an action involving more than one dealer, any county in which the business of any dealer that is party to the action is located is a proper venue for that action.

C. Before bringing a civil action under this section, the party bringing suit for an alleged violation of this act shall serve a written demand for mediation on the offending party. The demand for mediation shall include a brief statement of the dispute and the relief sought by the party making the demand. The party making the demand for mediation shall serve the demand by certified mail to one of the following addresses:

1. In an action between a dealer and a manufacturer, the address stated in the dealer agreement between the parties;

2. In an action between a dealer and a warrantor that is not a manufacturer, the address stated in any agreement between the parties; or

3. In an action between two dealers, the address of the offending dealer in the records of the OMVC.

D. Within twenty (20) days after a demand for mediation is served under subsection C of this section, the parties shall mutually select an independent mediator who is approved by the OMVC, and meet with that mediator for the purpose of attempting to resolve the dispute at a location in this state selected by the mediator. The mediator may extend the date of the meeting for good cause shown by either party or if the parties agree to the extension.

E. The service of a demand for mediation under subsection C of this section tolls the time for the filing of any complaint, petition, protest, or other action under this act until representatives of both parties have met with the mediator selected pursuant to subsection D of this section for the purpose of attempting to resolve the dispute. If a complaint, petition, protest, or other action is filed before that meeting, the court shall enter an order suspending the proceeding or action until the mediation meeting has occurred and may, if all of the parties to the proceeding or action stipulate in writing that they wish to continue to mediate under this section, enter an order suspending the proceeding or action for as long a period as the court considers

appropriate. The court may modify, extend, or revoke a suspension order issued under this subsection if it considers that action appropriate.

F. Each of the parties to the mediation under this section is responsible for its own attorney fees. The parties shall equally divide the cost of the mediator.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596.16 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. In addition to any remedy available under the provisions of this act or otherwise available by law, a manufacturer, warrantor, or dealer may apply to the court for the grant, after a hearing and for cause shown, of a temporary or permanent injunction or other equitable relief restraining any person from doing any of the following:

1. Acting as a dealer without a proper license;

2. Violating or continuing to violate the provisions of this act. A single violation of the provisions of this act shall be a sufficient basis for the court to grant equitable relief under this section; or

3. Failing or refusing to comply with any requirement of the provisions of this act.

B. The court may not require a bond as a condition to the grant of equitable relief under this section.

C. If, on January 1, 2011, a dealership does not meet the requirements of the definition of established place of business as defined in Section 3 of this act, the dealership shall be eligible for licensing by the OMVC for that location. If the dealership moves the dealership to a new location, the new dealership shall comply with the requirements of the definition of established place of business as defined in Section 3 of this act.

SECTION 19. AMENDATORY 21 O.S. 2001, Section 918, as amended by Section 1, Chapter 228, O.S.L. 2005 (21 O.S. Supp. 2010, Section 918), is amended to read as follows:

Section 918. No person, firm or corporation, whether owner, proprietor, agent or employee, shall keep open, operate or assist in keeping open or operating any place or premises or residences whether open or closed, for the purpose of selling, bartering, or exchanging, or offering for sale, barter, or exchange, any motor vehicle or motor vehicles, whether new, used or second hand, on the first day of the week, commonly called Sunday, except as otherwise provided in this section; and provided, however, that this act shall not apply to the opening of an establishment or place of business on the first day of the week for other purposes, such as the sale of petroleum products, tires, automobile accessories, or for the purpose of operating and conducting a motor vehicle repair shop, or for the purpose of supplying such services as towing or wrecking. Antique, classic, or special interest automobiles sold, bartered,

auctioned, or exchanged by any person, firm, or corporation are exempt from the provisions of this section, as well as off-premise sales of new motorized recreational vehicles approved by the Oklahoma Motor Vehicle Commission pursuant to ~~Section 564.1 of Title 47 of the Oklahoma Statutes~~ the provisions of the Recreational Vehicle Franchise Act.

SECTION 20. AMENDATORY 47 O.S. 2001, Section 562, as last amended by Section 7, Chapter 182, O.S.L. 2009 (47 O.S. Supp. 2010, 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. "Motor vehicle" means any motor-driven vehicle required to be registered under the Oklahoma Vehicle License and Registration Act except recreational vehicles, as defined in the Recreational Vehicle Franchise Act, all-terrain vehicles, utility vehicles, and motorcycles used exclusively for off-road use;

2. "New motor vehicle dealer" means any person, firm, association, corporation or trust not excluded by this paragraph who sells, offers for sale, advertises to sell, leases or displays new motor vehicles and holds a bona fide contract or franchise in effect with a manufacturer or distributor authorized by the manufacturer to

make predelivery preparation of such vehicles sold to purchasers and to perform post-sale work pursuant to the manufacturer's or distributor's warranty. As used herein, "authorized predelivery preparation" means the rendition by the dealer of services and safety adjustments on each new motor vehicle in accordance with the procedure and safety standards required by the manufacturer of the vehicle to be made before its delivery to the purchaser. "Performance of authorized post-sale work pursuant to the warranty", as used herein, means the rendition of services which are required by the terms of the warranty that stands extended to the vehicle at the time of its sale and are to be made in accordance with the safety standards prescribed by the manufacturer. The term includes premises or facilities at which a person engages only in the repair of motor vehicles if repairs are performed pursuant to the terms of a franchise and motor vehicle manufacturer's warranty. However, the term shall not include premises or facilities at which a new motor vehicle dealer or dealers within the area of responsibility of such dealer or dealers as defined in the manufacturer's franchise agreement of such dealer or dealers performs motor vehicle repairs pursuant to the terms of a franchise and motor vehicle manufacturer's warranty. For the purpose of Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title, the terms "new motor vehicle dealer" and "new motor vehicle dealership" shall be synonymous. The term "new motor vehicle dealer" does not include:

a. receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment or order of any court,

b. public officers while performing or in operation of their duties, or

c. employees of persons, corporations or associations enumerated in subparagraph a of this paragraph when engaged in the specific performance of their duties as such employees;

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

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

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

6. "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who, being authorized by the original manufacturer, in whole or in part sells or

distributes new and unused motor vehicles to motor vehicle dealers, or who maintains distributor representatives;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 21. AMENDATORY 47 O.S. 2001, Section 564.1, as last amended by Section 3, Chapter 315, O.S.L. 2008 (47 O.S. Supp. 2010, Section 564.1), is amended to read as follows:

Section 564.1 Licensing of off-premises displays of new motor vehicles and off-premise sales of new motorized recreational vehicles.

A. The Oklahoma Motor Vehicle Commission shall provide for off-premise displays of new motor vehicles ~~and off-premise sales of new motorized recreational vehicles,~~ by currently licensed new motor vehicle dealers ~~as follows:~~.

~~1.~~ An off-premise event may be held for display purposes only under the following conditions:

~~a.~~ ~~the~~ 1. The motor vehicles are for display purposes only and not for sale at the off-premise display event~~,~~;

~~b.~~ ~~no~~ 2. No selling activities shall be conducted~~,~~;

~~c.~~ ~~the~~ 3. The display is in dealer's factory-approved area of sales and service responsibility;

~~d.~~ ~~the~~ 4. The dealer must obtain written approval from the manufacturer or distributor~~,~~; and

~~e.~~ ~~the~~ 5. The dealer is required to obtain approval for the display location from the sponsoring entity~~; and~~

~~2. An off premise event by motorized recreational vehicle dealer or dealers, at which selling activities are conducted, may be held only under the following conditions:~~

~~a. permits for a sales event described in this paragraph shall be obtained from the Commission at the rate of Fifteen Dollars ($15.00) per vehicle, per event,~~

~~b. the permit shall be for a period not to exceed ten (10) consecutive days,~~

~~c. the sponsoring entity of the sales event shall obtain a license from the Commission at the rate of Two Hundred Dollars ($200.00) per event,~~

~~d. new motorized recreational vehicle dealers whose factory approved area of sales and service responsibility includes the event location would be eligible to participate,~~

~~e. new motorized recreational vehicle dealers must obtain written approval from the manufacturer or distributor, and~~

~~f. the off-premise sales event shall be conducted within municipal, county, or state-owned or controlled facilities or within the grounds of any county, district, or state fair~~.

B. The Oklahoma Motor Vehicle Commission is authorized to provide a variance to the distance requirements specified in this section, for any off-premise display event if:

1. The off-premise display is conducted within municipal, county, or state-owned or controlled facilities or within the grounds of any county, district, or state fair; and

2. The request for the variance must be in writing to the Commission no less than thirty (30) days prior to the off-premise display event.

SECTION 22. This act shall become effective January 1, 2012.

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