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April 4, 2013

ENGROSSED HOUSE
BILL NO. 1078

By: Sanders of the House

and

Marlatt of the Senate

An Act relating to motor vehicles; amending 47 O.S. 2011, Section 583, which relates to used motor vehicle dealer licenses; and prohibiting manufactured home manufacturing facilities from conducting certain transactions.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 583, is amended to read as follows:

Section 583. A. 1. It shall be unlawful and constitute a misdemeanor for any person to engage in business as, or serve in the capacity of, or act as a used motor vehicle dealer, used motor vehicle salesperson, wholesale used motor vehicle dealer, manufactured home dealer, manufactured home salesperson, manufactured home installer, or manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state without first obtaining a license or following other requirements therefor as provided in this section.

- 1 2. a. Any person engaging, acting, or serving in the
2 capacity of a used motor vehicle dealer and/or a used
3 motor vehicle salesperson, a manufactured home dealer,
4 manufactured home salesperson, a manufactured home
5 installer, or a manufactured home manufacturer, or
6 having more than one place where any such business, or
7 combination of businesses, is carried on or conducted
8 shall be required to obtain and hold a current license
9 for each such business, in which engaged.
- 10 b. A used motor vehicle dealer's license shall authorize
11 one person to sell without a salesperson's license in
12 the event such person shall be the owner of a
13 proprietorship, or the person designated as principal
14 in the dealer's franchise or the managing officer or
15 one partner if no principal person is named in the
16 franchise.
- 17 c. If after a hearing in accordance with the provisions
18 of Section 585 of this title, the Oklahoma Used Motor
19 Vehicle and Parts Commission shall find any person
20 installing a mobile or manufactured home to be in
21 violation of any of the provisions of this act, such
22 person may be subject to an administrative fine of not
23 more than Five Hundred Dollars (\$500.00) for each
24 violation. Each day a person is in violation of this

1 act may constitute a separate violation. The maximum
2 fine shall not exceed One Thousand Dollars
3 (\$1,000.00). All administrative fines collected
4 pursuant to the provisions of this subparagraph shall
5 be deposited in the fund established in Section 582 of
6 this title. Administrative fines imposed pursuant to
7 this subparagraph may be enforceable in the district
8 courts of this state.

9 d. A salesperson's license may not be issued under a
10 wholesale used motor vehicle dealer's license.

11 3. Any person except persons penalized by administrative fine
12 violating the provisions of this section shall, upon conviction, be
13 fined not to exceed Five Hundred Dollars (\$500.00). A second or
14 subsequent conviction shall be punished by a fine not to exceed One
15 Thousand Dollars (\$1,000.00); provided that each day such unlicensed
16 person violates this section shall constitute a separate offense,
17 and any vehicle involved in a violation of this subsection shall be
18 considered a separate offense.

19 B. 1. Applications for licenses required to be obtained under
20 provisions of this act, Section 581 et seq. of this title, which
21 creates the Oklahoma Used Motor Vehicle and Parts Commission shall
22 be verified by the oath or affirmation of the applicant and shall be
23 on forms prescribed by the Commission and furnished to the
24 applicants, and shall contain such information as the Commission

1 deems necessary to enable it to fully determine the qualifications
2 and eligibility of the several applicants to receive the license or
3 licenses applied for. The Commission shall require in the
4 application, or otherwise, information relating to:

- 5 a. the applicant's financial standing,
- 6 b. the applicant's business integrity,
- 7 c. whether the applicant has an established place of
8 business and is engaged in the pursuit, avocation, or
9 business for which a license, or licenses, is applied
10 for,
- 11 d. whether the applicant is able to properly conduct the
12 business for which a license, or licenses, is applied
13 for, and
- 14 e. such other pertinent information consistent with the
15 safeguarding of the public interest and the public
16 welfare.

17 2. All applications for license or licenses shall be
18 accompanied by the appropriate fee or fees in accordance with the
19 schedule hereinafter provided. In the event any application is
20 denied and the license applied for is not issued, the entire license
21 fee shall be returned to the applicant.

22 3. All bonds and licenses issued under the provisions of this
23 act shall expire on December 31, following the date of issue and
24 shall be nontransferable. All applications for renewal of licenses

1 should be submitted by November 1 of each year, and licenses shall
2 be issued by January 10. If applications have not been made for
3 renewal of licenses, such licenses shall expire on December 31 and
4 it shall be illegal for any person to represent himself or herself
5 and act as a dealer thereafter. Tag agents shall be notified not to
6 accept dealers' titles until such time as licenses have been issued.

7 4. A used motor vehicle salesperson's license shall permit the
8 licensee to engage in the activities of a used motor vehicle
9 salesperson. Salespersons shall not be allowed to sell vehicles
10 unless applications, bonds, and fees are on file with the Commission
11 and the motor vehicle salesperson's or temporary salesperson's
12 license issued. A temporary salesperson's license, salesperson's
13 renewal or reissue of salesperson's license shall be deemed to have
14 been issued when the appropriate application, bond, and fee have
15 been properly addressed and mailed to the Commission.

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

18 C. The schedule of license fees to be charged and received by
19 the Commission for the licenses issued hereunder shall be as
20 follows:

21 1. For each used motor vehicle dealer's license and each
22 wholesale used motor vehicle dealer's license, Three Hundred Dollars
23 (\$300.00). If a used motor vehicle dealer or a wholesale used motor
24 vehicle dealer has once been licensed by the Commission in the

1 classification for which he or she applies for a renewal of the
2 license, the fee for each subsequent renewal shall be One Hundred
3 Fifty Dollars (\$150.00); provided, if an applicant holds a license
4 to conduct business as an automotive dismantler and parts recycler
5 issued pursuant to Section 591.1 et seq. of this title, the initial
6 fee shall be One Hundred Dollars (\$100.00) and the renewal fee shall
7 be One Hundred Dollars (\$100.00). If an applicant is applying
8 simultaneously for a license under this paragraph and a license
9 under paragraph 1 of Section 591.5 of this title, the initial
10 application fee shall be Two Hundred Dollars (\$200.00). For the
11 reinstatement of a used motor vehicle dealer's license after
12 revocation for cancellation or expiration of insurance pursuant to
13 subsection F of this section, the fee shall be One Hundred Dollars
14 (\$100.00);

15 2. For a used motor vehicle dealer's license, for each place of
16 business in addition to the principal place of business, One Hundred
17 Dollars (\$100.00);

18 3. For each used motor vehicle salesperson's license and
19 renewal, Twenty-five Dollars (\$25.00), and for a transfer, Twenty-
20 five Dollars (\$25.00);

21 4. For each holder who possesses a valid new motor vehicle
22 dealer's license from the Oklahoma Motor Vehicle Commission, One
23 Hundred Dollars (\$100.00) shall be the initial fee for a used motor
24

1 vehicle license and the fee for each subsequent renewal shall be One
2 Hundred Dollars (\$100.00);

3 5. a. For each manufactured home dealer's license, Three
4 Hundred Dollars (\$300.00), and for each place of
5 business in addition to the principal place of
6 business, Two Hundred Dollars (\$200.00).

7 b. For each renewal of a manufactured home dealer's
8 license, and renewal for each place of business in
9 addition to the principal place of business, One
10 Hundred Fifty Dollars (\$150.00);

11 6. a. For each manufactured home installer's license, Two
12 Hundred Dollars (\$200.00).

13 b. For each renewal of a manufactured home installer's
14 license, Two Hundred Dollars (\$200.00);

15 7. a. For each manufactured home manufacturer selling
16 directly to a licensed manufactured home dealer in
17 this state, Seven Hundred Fifty Dollars (\$750.00).

18 b. For each renewal of a manufactured home manufacturer's
19 license, Seven Hundred Fifty Dollars (\$750.00); and

20 8. For each manufactured home salesperson's license or renewal
21 thereof, Twenty-five Dollars (\$25.00), and for each transfer,
22 Twenty-five Dollars (\$25.00).

23 D. 1. The license issued to each used motor vehicle dealer,
24 each wholesale used motor vehicle dealer and each manufactured home

1 dealer shall specify the location of the place of business. If the
2 business location is changed, the Oklahoma Used Motor Vehicle and
3 Parts Commission shall be notified immediately of the change and the
4 Commission may endorse the change of location on the license. The
5 fee for a change of location shall be One Hundred Dollars (\$100.00),
6 and the fee for a change of name, Twenty-five Dollars (\$25.00). The
7 license of each licensee shall be posted in a conspicuous place in
8 the place or places of business of the licensee.

9 2. The license issued to each manufactured home installer, and
10 each manufactured home manufacturer shall specify the location of
11 the place of business. If the business location is changed, the
12 Oklahoma Used Motor Vehicle and Parts Commission shall be notified
13 immediately of the change and the Commission may endorse the change
14 of location on the license without charge. The license of each
15 licensee shall be posted in a conspicuous place in the place or
16 places of business of the licensee.

17 3. Every used motor vehicle salesperson shall have the license
18 upon his or her person when engaged in business, and shall display
19 same upon request. The name of the employer of the salesperson
20 shall be stated on the license and if there is a change of employer,
21 the license holder shall immediately mail the license to the
22 Commission for its endorsement of the change thereon. There shall
23 be no charge for endorsement of change of employer on the license or
24 penalty for not having a license upon his or her person.

1 4. Every manufactured home installer shall have the license
2 available for inspection at the primary place of business of the
3 licensee. This license shall be valid for the licensee and all of
4 the employees of the licensee. Any person who is not an employee of
5 the licensee must obtain a separate manufactured home installer
6 license regardless of whether such person is acting in the capacity
7 of a contractor or subcontractor.

8 E. 1. a. Each applicant for a used motor vehicle dealer's
9 license shall procure and file with the Commission a
10 good and sufficient bond in the amount of Fifteen
11 Thousand Dollars (\$15,000.00). Each new applicant for
12 a used motor vehicle dealer's license for the purpose
13 of conducting a used motor vehicle auction shall
14 procure and file with the Commission a good and
15 sufficient bond in the amount of Fifty Thousand
16 Dollars (\$50,000.00). An applicant who intends to
17 conduct a used motor vehicle auction who provides
18 proof that the applicant has check and title insurance
19 in an amount not less than Fifty Thousand Dollars
20 (\$50,000.00) shall only be required to have a bond in
21 the amount of Twenty-five Thousand Dollars
22 (\$25,000.00).

23 b. Each new applicant for a used motor vehicle dealer
24 license for the purpose of conducting a used motor

1 vehicle business which will consist primarily of non-
2 auction consignment sales which are projected to equal
3 Five Hundred Thousand Dollars (\$500,000.00) or more in
4 gross annual sales shall procure and file with the
5 Commission a good and sufficient bond in the amount of
6 Fifty Thousand Dollars (\$50,000.00). The Commission
7 shall prescribe by rule the method of operation of the
8 non-auction consignment dealer in order to properly
9 protect the interests of all parties to the
10 transaction and to provide sanctions against dealers
11 who fail to comply with the rules.

12 c. Each applicant for a wholesale used motor vehicle
13 dealer's license shall procure and file with the
14 Commission a good and sufficient bond in the amount of
15 Twenty-five Thousand Dollars (\$25,000.00).

16 d. Any used motor vehicle dealer who, for the purpose of
17 being a rebuilder, applies for a rebuilder
18 certificate, as provided in Section 591.5 of this
19 title, whether as a new application or renewal, shall
20 procure and file with the Commission a good and
21 sufficient bond in the amount of Fifteen Thousand
22 Dollars (\$15,000.00), in addition to any other bonds
23 required.
24

1 e. Each applicant for a manufactured home dealer's
2 license shall procure and file with the Commission a
3 good and sufficient bond in the amount of Thirty
4 Thousand Dollars (\$30,000.00).

5 f. Each manufactured home manufacturing facility
6 selling directly to a licensed manufactured home
7 dealer in this state shall procure and file with the
8 Commission a good and sufficient bond in the amount
9 of Thirty Thousand Dollars (\$30,000.00). In
10 addition to all other conditions and requirements
11 set forth herein, the bond shall require the
12 availability of prompt and full warranty service by
13 the manufacturer to comply with all warranties
14 expressed or implied in connection with each
15 manufactured home which is manufactured for resale
16 in this state. A manufacturer may not sell,
17 exchange, or lease-purchase a manufactured home to a
18 person in this state who is not a licensed
19 manufactured home dealer.

20 g. The bond shall be approved as to form by the Attorney
21 General and conditioned that the applicant shall not
22 practice fraud, make any fraudulent representation, or
23 violate any of the provisions of this act in the
24 conduct of the business for which the applicant is

1 licensed. One of the purposes of the bond is to
2 provide reimbursement for any loss or damage suffered
3 by any person by reason of issuance of a certificate
4 of title by a used motor vehicle dealer, a wholesale
5 used motor vehicle dealer, or a manufactured home
6 dealer.

7 2. If a motor vehicle dealer has a valid license issued by the
8 Oklahoma Motor Vehicle Commission, then the bond as required by this
9 subsection shall be waived.

10 3. Each applicant for a used motor vehicle salesperson's
11 license shall procure and file with the Commission a good and
12 sufficient bond in the amount of One Thousand Dollars (\$1,000.00).
13 The bond shall be approved as to form by the Attorney General and
14 conditioned that the applicant shall perform duties as a used motor
15 vehicle salesperson without fraud or fraudulent representation and
16 without violating any provisions of this act.

17 4. The bonds as required by this section shall be maintained
18 throughout the period of licensure. Should the bond be canceled for
19 any reason, the license shall be revoked as of the date of
20 cancellation unless a new bond is furnished prior to such date.

21 F. Any used motor vehicle dealer or wholesale used motor
22 vehicle dealer is required to furnish and keep in force a minimum of
23 Twenty-five Thousand Dollars (\$25,000.00) of single liability
24 insurance coverage on all vehicles offered for sale or used in any

1 other capacity in demonstrating or utilizing the streets and
2 roadways in accordance with the financial responsibility laws of
3 this state.

4 G. Any manufactured home dealer is required to furnish and keep
5 in force a minimum of One Hundred Thousand Dollars (\$100,000.00) of
6 garage liability or general liability with products and completed
7 operations insurance coverage.

8 H. Any manufactured home installer is required to furnish and
9 keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00)
10 of general liability with products and completed operations
11 insurance coverage.

12 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
13 April 4, 2013 - DO PASS
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