

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 110

By: Newberry

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5
6 AS INTRODUCED

7 An Act relating to the Used Motor Vehicle and parts
8 Commission; amending 47 O.S. 2011, Section 583, as
9 last amended by Section 1, Chapter 386, O.S.L. 2015
10 (47 O.S. Supp. 2016, Section 583), which relates to
11 fees; requiring certain fees be remitted within
12 certain time; setting certain fee amount for certain
13 auction vehicle sales; exempting certain sales; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 47 O.S. 2011, Section 583, as last
17 amended by Section 1, Chapter 386, O.S.L. 2015 (47 O.S. Supp. 2016,
18 Section 583), is amended to read as follows:

19 Section 583. A. 1. It shall be unlawful and constitute a
20 misdemeanor for any person to engage in business as, or serve in the
21 capacity of, or act as a used motor vehicle dealer, used motor
22 vehicle salesperson, wholesale used motor vehicle dealer,
23 manufactured home dealer, restricted manufactured home park dealer,
24 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

1 license or following other requirements therefor as provided in this
2 section.

3 2. a. Any person engaging, acting, or serving in the
4 capacity of a used motor vehicle dealer and/or a used
5 motor vehicle salesperson, a manufactured home dealer,
6 restricted manufactured home park dealer, manufactured
7 home salesperson, a manufactured home installer, or a
8 manufactured home manufacturer, or having more than
9 one place where any such business, or combination of
10 businesses, is carried on or conducted shall be
11 required to obtain and hold a current license for each
12 such business, in which engaged.

13 b. A used motor vehicle dealer's license shall authorize
14 one person to sell without a salesperson's license in
15 the event such person shall be the owner of a
16 proprietorship, or the person designated as principal
17 in the dealer's franchise or the managing officer or
18 one partner if no principal person is named in the
19 franchise.

20 c. If after a hearing in accordance with the provisions
21 of Section 585 of this title, the Oklahoma Used Motor
22 Vehicle and Parts Commission shall find any person
23 installing a mobile or manufactured home to be in
24 violation of any of the provisions of ~~this act~~ Section

1 581 et seq. of this title, such person may be subject
2 to an administrative fine of not more than Five
3 Hundred Dollars (\$500.00) for each violation. Each
4 day a person is in violation of ~~this act~~ Section 581
5 et seq. of this title may constitute a separate
6 violation. All administrative fines collected
7 pursuant to the provisions of this subparagraph shall
8 be deposited in the fund established in Section 582 of
9 this title. Administrative fines imposed pursuant to
10 this subparagraph may be enforceable in the district
11 courts of this state.

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

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

22 B. 1. Applications for licenses required to be obtained under
23 the provisions of the Oklahoma Used Motor Vehicle and Parts
24 Commission shall be verified by the oath or affirmation of the

1 applicant and shall be on forms prescribed by the Commission and
2 furnished to the applicants, and shall contain such information as
3 the Commission deems necessary to enable it to fully determine the
4 qualifications and eligibility of the several applicants to receive
5 the license or licenses applied for. The Commission shall require
6 in the application, or otherwise, information relating to:

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

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

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1 3. All bonds and licenses issued under the provisions of this
2 act shall expire on December 31, following the date of issue and
3 shall be nontransferable. All applications for renewal of licenses
4 shall be submitted by November 1 of each year of expiration, and
5 licenses for completed renewals received by November 1 shall be
6 issued by January 10. If applications have not been made for
7 renewal of licenses, such licenses shall expire on December 31 and
8 it shall be illegal for any person to represent himself or herself
9 and act as a dealer thereafter. Tag agents shall be notified not to
10 accept dealers' titles until such time as licenses have been issued.
11 Beginning January 1, 2016, all licenses shall be issued for a period
12 of two (2) years and the appropriate fees shall be assessed. The
13 Commission shall adopt rules necessary to implement the two-year
14 licensing provisions.

15 4. A used motor vehicle salesperson's license shall permit the
16 licensee to engage in the activities of a used motor vehicle
17 salesperson. Salespersons shall not be allowed to sell vehicles
18 unless applications and fees are on file with the Commission and the
19 motor vehicle salesperson's or temporary salesperson's license
20 issued. A temporary salesperson's license, salesperson's renewal or
21 reissue of salesperson's license shall be deemed to have been issued
22 when the appropriate application and fee have been properly
23 addressed and mailed to the Commission.

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

3 C. The schedule of license fees to be charged and received by
4 the Commission for the licenses issued hereunder shall be as
5 follows:

6 1. For each used motor vehicle dealer's license and each
7 wholesale used motor vehicle dealer's license, Six Hundred Dollars
8 (\$600.00). If a used motor vehicle dealer or a wholesale used motor
9 vehicle dealer has once been licensed by the Commission in the
10 classification for which he or she applies for a renewal of the
11 license, the fee for each subsequent renewal shall be Three Hundred
12 Dollars (\$300.00); provided, if an applicant holds a license to
13 conduct business as an automotive dismantler and parts recycler
14 issued pursuant to Section 591.1 et seq. of this title, the initial
15 fee shall be Two Hundred Dollars (\$200.00) and the renewal fee shall
16 be Two Hundred Dollars (\$200.00). If an applicant is applying
17 simultaneously for a license under this paragraph and a license
18 under paragraph 1 of Section 591.5 of this title, the initial
19 application fee shall be Four Hundred Dollars (\$400.00). For the
20 reinstatement of a used motor vehicle dealer's license after
21 revocation for cancellation or expiration of insurance pursuant to
22 subsection F of this section, the fee shall be Two Hundred Dollars
23 (\$200.00);

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1 2. For a used motor vehicle dealer's license, for each place of
2 business in addition to the principal place of business, Two Hundred
3 Dollars (\$200.00);

4 3. For each used motor vehicle salesperson's license and
5 renewal, Fifty Dollars (\$50.00), and for a transfer, Fifty Dollars
6 (\$50.00);

7 4. For each holder who possesses a valid new motor vehicle
8 dealer's license from the Oklahoma Motor Vehicle Commission, Two
9 Hundred Dollars (\$200.00) shall be the initial fee for a used motor
10 vehicle license and the fee for each subsequent renewal shall be Two
11 Hundred Dollars (\$200.00);

12 5. a. For each manufactured home dealer's license or a
13 restricted manufactured home park dealer's license,
14 Six Hundred Dollars (\$600.00), and for each place of
15 business in addition to the principal place of
16 business, Four Hundred Dollars (\$400.00), and

17 b. For each renewal of a manufactured home dealer's
18 license or a restricted manufactured home park
19 dealer's license, and renewal for each place of
20 business in addition to the principal place of
21 business, Three Hundred Dollars (\$300.00);

22 6. a. For each manufactured home installer's license, Four
23 Hundred Dollars (\$400.00), and

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1 b. For each renewal of a manufactured home installer's
2 license, Four Hundred Dollars (\$400.00);

3 7. a. For each manufactured home manufacturer selling
4 directly to a licensed manufactured home dealer in
5 this state, One Thousand Five Hundred Dollars
6 (\$1,500.00), and

7 b. For each renewal of a manufactured home manufacturer's
8 license, One Thousand Five Hundred Dollars
9 (\$1,500.00); ~~and~~

10 8. For each manufactured home salesperson's license or renewal
11 thereof, Fifty Dollars (\$50.00), and for each transfer, Fifty
12 Dollars (\$50.00); and

13 9. For each used motor vehicle auction which sells vehicles to
14 the public it shall be the duty of the owner, manager or person in
15 charge of the auction to remit payments to the Oklahoma Used Motor
16 Vehicle and Parts Commission. Such payments shall be calculated by
17 multiplying the total number of vehicles sold to the public during a
18 certain period of time by Three Dollars (\$3.00). The first payment
19 shall not be calculated on any sales transaction prior to November
20 1, 2017. The payments need not be made more often than one payment
21 each month. The payments shall be transmitted to the Oklahoma Used
22 Motor Vehicle and Parts Commission at any time during the thirty-day
23 period immediately following the period for which the payment was
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1 calculated; provided, the fee shall not be applicable to any sale by
2 or on behalf of any governmental agency.

3 D. 1. The license issued to each used motor vehicle dealer,
4 each wholesale used motor vehicle dealer, each restricted
5 manufactured home park dealer and each manufactured home dealer
6 shall specify the location of the place of business. If the
7 business location is changed, the Oklahoma Used Motor Vehicle and
8 Parts Commission shall be notified immediately of the change and the
9 Commission may endorse the change of location on the license. The
10 fee for a change of location shall be One Hundred Dollars (\$100.00),
11 and the fee for a change of name, Twenty-five Dollars (\$25.00). The
12 license of each licensee shall be posted in a conspicuous place in
13 the place or places of business of the licensee.

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

22 3. Every used motor vehicle salesperson shall have the license
23 upon his or her person when engaged in business, and shall display
24 same upon request. The name of the employer of the salesperson

1 shall be stated on the license and if there is a change of employer,
2 the license holder shall immediately mail the license to the
3 Commission for its endorsement of the change thereon. There shall
4 be no penalty for not having a license upon his or her person.

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

12 E. 1. a. Each applicant for a used motor vehicle dealer's
13 license shall procure and file with the Commission a
14 good and sufficient bond in the amount of Twenty-five
15 Thousand Dollars (\$25,000.00). Each new applicant for
16 a used motor vehicle dealer's license for the purpose
17 of conducting a used motor vehicle auction shall
18 procure and file with the Commission a good and
19 sufficient bond in the amount of Fifty Thousand
20 Dollars (\$50,000.00). An applicant who intends to
21 conduct a used motor vehicle auction who provides
22 proof that the applicant has check and title insurance
23 in an amount not less than Fifty Thousand Dollars
24 (\$50,000.00) shall only be required to have a bond in

1 the amount of Twenty-five Thousand Dollars
2 (\$25,000.00).

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

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

20 d. Any used motor vehicle dealer who, for the purpose of
21 being a rebuilder, applies for a rebuilder
22 certificate, as provided in Section 591.5 of this
23 title, whether as a new application or renewal, shall
24 procure and file with the Commission a good and

1 sufficient bond in the amount of Fifteen Thousand
2 Dollars (\$15,000.00), in addition to any other bonds
3 required.

4 e. Each applicant for a manufactured home dealer's
5 license or a restricted manufactured home park
6 dealer's license shall procure and file with the
7 Commission a good and sufficient bond in the amount of
8 Thirty Thousand Dollars (\$30,000.00).

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

23 g. The bond shall be approved as to form by the Attorney
24 General and conditioned that the applicant shall not

1 practice fraud, make any fraudulent representation, or
2 violate any of the provisions of ~~this act~~ Section 581
3 et seq. of this title in the conduct of the business
4 for which the applicant is licensed. One of the
5 purposes of the bond is to provide reimbursement for
6 any loss or damage suffered by any person by reason of
7 issuance of a certificate of title by a used motor
8 vehicle dealer, a wholesale used motor vehicle dealer,
9 a restricted manufactured home park dealer or a
10 manufactured home dealer.

11 2. The bonds as required by this section shall be maintained
12 throughout the period of licensure. Should the bond be canceled for
13 any reason, the license shall be revoked as of the date of
14 cancellation unless a new bond is furnished prior to such date.

15 F. Any used motor vehicle dealer or wholesale used motor
16 vehicle dealer is required to furnish and keep in force a minimum of
17 Twenty-five Thousand Dollars (\$25,000.00) of single liability
18 insurance coverage on all vehicles offered for sale or used in any
19 other capacity in demonstrating or utilizing the streets and
20 roadways in accordance with the financial responsibility laws of
21 this state.

22 G. Any manufactured home dealer or restricted manufactured home
23 park dealer is required to furnish and keep in force a minimum of
24 One Hundred Thousand Dollars (\$100,000.00) of garage liability or

1 general liability with products and completed operations insurance
2 coverage.

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

7 SECTION 2. This act shall become effective November 1, 2017.

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