

1 ENGROSSED SENATE AMENDMENTS
TO
2 ENGROSSED HOUSE
3 BILL NO. 1149

By: Osburn of the House

and

Rogers of the Senate

4
5
6
7 An Act relating to motor vehicles; amending Section
8 7, Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020,
9 Section 564.2), which relates to certificates of
10 registration for new motor vehicle salespersons; ***
11 requiring certain employees to have certificates of
12 registration; amending 47 O.S. 2011, Section 583, as
13 last amended by Section 24, Chapter 161, O.S.L. 2020
14 (47 O.S. Supp. 2020, Section 583), which relates to
15 *** registration; allowing certain new vehicle
16 salespeople to sell used vehicles; providing for
17 registration fees and renewal; amending 47 O.S. 2011,
18 Section 584, as last amended by Section 6, Chapter
19 *** which relates to new recreational vehicle dealer
20 licenses; requiring new recreational vehicle
21 salespersons be registered; amending 47 O.S. 2011,
22 Section 596.14, which relates to denial of ***
23 issuance of fines for registered salespersons; and
24 providing an effective date.

18 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
19 entire bill and insert

20 "An Act relating to motor vehicles; amending Section
21 7, Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020,
22 Section 564.2), which relates to certificates of
23 registration for new motor vehicle salespersons;
24 requiring any administrative fines to be paid by the
employing entity; amending 47 O.S. 2011, Section 565,
as last amended by Section 2, Chapter 79, O.S.L. 2019
(47 O.S. Supp. 2020, Section 565), which relates to
Oklahoma Motor Vehicle Commission licensing;
requiring certain employees to have certificates of

1 registration; amending 47 O.S. 2011, Section 583, as
2 last amended by Section 24, Chapter 161, O.S.L. 2020
3 (47 O.S. Supp. 2020, Section 583), which relates to
4 used motor vehicle licensing; providing for
5 registered persons to engage in certain activities;
6 providing for temporary approval; amending Section 8,
7 Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020, Section
8 583.1), which relates to certificates of
9 registration; allowing certain new vehicle
10 salespeople to sell used vehicles; providing for
11 registration fees and renewal; amending 47 O.S. 2011,
12 Section 584, as last amended by Section 6, Chapter
13 79, O.S.L. 2019 (47 O.S. Supp. 2020, Section 584),
14 which relates to Oklahoma Used Motor Vehicle and
15 Parts Commission licensing; allowing for the denial
16 of application and imposition of fines for certain
17 salespeople; amending 47 O.S. 2011, Section 596.2,
18 which relates to new recreational vehicle dealer
19 licenses; requiring new recreational vehicle
20 salesperson registrations; amending 47 O.S. 2011,
21 Section 596.14, which relates to denial of
22 application for license; allowing for fines for
23 employment of unregistered salespersons; and
24 providing an effective date.

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

SECTION 1. AMENDATORY Section 7, Chapter 79, O.S.L. 2019
(47 O.S. Supp. 2020, Section 564.2), is amended to read as follows:

Section 564.2. It shall be punishable by an administrative fine
not to exceed Five Hundred Dollars (\$500.00) for any person, firm,
association, corporation or trust to engage in business as, or serve
in the capacity of, a new motor vehicle salesperson in this state
without first obtaining a certificate of registration with the
Oklahoma Motor Vehicle Commission. The cost of registration for
each new salesperson shall be set at Twenty-five Dollars (\$25.00) to

1 be renewed annually. The cost of registration and any
2 administrative fine is to be borne by the employing entity of the
3 new salesperson. The Commission shall promulgate rules and
4 procedures necessary for the implementation and creation of the
5 registry and the issuance of certificates of registration.

6 SECTION 2. AMENDATORY 47 O.S. 2011, Section 565, as last
7 amended by Section 2, Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020,
8 Section 565), is amended to read as follows:

9 Section 565. A. The Oklahoma Motor Vehicle Commission may deny
10 an application for a license, or revoke or suspend a license or
11 impose a fine not to exceed Ten Thousand Dollars (\$10,000.00)
12 against a manufacturer or distributor or a fine not to exceed One
13 Thousand Dollars (\$1,000.00) against a dealer per occurrence that
14 any provision of Sections 561 through 567, 572, 578.1, 579 and 579.1
15 of this title is violated or for any of the following reasons:

16 1. On satisfactory proof of unfitness of the applicant in any
17 application for any license under the provisions of Section 561 et
18 seq. of this title;

19 2. For any material misstatement made by an applicant in any
20 application for any license under the provisions of Section 561 et
21 seq. of this title;

22 3. For any failure to comply with any provision of Section 561
23 et seq. of this title or any rule promulgated by the Commission
24 under authority vested in it by Section 561 et seq. of this title;

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

3 5. Being a new motor vehicle dealer who:

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

9 b. uses any false or misleading advertising in connection
10 with business as a new motor vehicle dealer,

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

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

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

18 f. has committed a fraudulent act in selling, purchasing
19 or otherwise dealing in new motor vehicles or has
20 misrepresented the terms and conditions of a sale,
21 purchase or contract for sale or purchase of a new
22 motor vehicle or any interest therein including an
23 option to purchase such vehicle,
24

1 g. has failed to meet or maintain the conditions and
2 requirements necessary to qualify for the issuance of
3 a license, or

4 h. completes any sale or transaction of an extended
5 service contract, extended maintenance plan, or
6 similar product using contract forms that do not
7 conspicuously disclose the identity of the service
8 contract provider;

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

11 7. Being a new motor vehicle dealer who:

12 a. does not have an established place of business,

13 b. does not provide for a suitable repair shop separate
14 from the display room with ample space to repair or
15 recondition one or more vehicles at the same time, and
16 which is equipped with such parts, tools and equipment
17 as may be requisite for the servicing of motor
18 vehicles in such a manner as to make them comply with
19 the safety laws of this state and to properly fulfill
20 the dealer's or manufacturer's warranty obligation,

21 c. does not hold a franchise in effect with a
22 manufacturer or distributor of new or unused motor
23 vehicles for the sale of the same and is not
24 authorized by the manufacturer or distributor to

1 render predelivery preparation of such vehicles sold
2 to purchasers and to perform any authorized post-sale
3 work pursuant to the manufacturer's or distributor's
4 warranty,

5 d. employs a person without obtaining a certificate of
6 registration for the person, or utilizes the services
7 of used motor vehicle lots or dealers or other
8 unlicensed persons in connection with the sale of new
9 motor vehicles,

10 e. does not properly service a new motor vehicle before
11 delivery of same to the original purchaser thereof, or

12 f. fails to order and stock a reasonable number of new
13 motor vehicles necessary to meet customer demand for
14 each of the new motor vehicles included in the new
15 motor vehicle dealer's franchise agreement, unless the
16 new motor vehicles are not readily available from the
17 manufacturer or distributor due to limited production;

18 8. Being a factory that has:

19 a. either induced or attempted to induce by means of
20 coercion or intimidation, any new motor vehicle
21 dealer:

22 (1) to accept delivery of any motor vehicle or
23 vehicles, parts or accessories therefor, or any
24 other commodities including advertising material

1 which shall not have been ordered by the new
2 motor vehicle dealer,

3 (2) to order or accept delivery of any motor vehicle
4 with special features, appliances, accessories or
5 equipment not included in the list price of the
6 motor vehicles as publicly advertised by the
7 manufacturer thereof, or

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

11 b. induced under threat or discrimination by the
12 withholding from delivery to a motor vehicle dealer
13 certain models of motor vehicles, changing or amending
14 unilaterally the dealer's allotment of motor vehicles
15 and/or withholding and delaying delivery of such
16 vehicles out of the ordinary course of business, in
17 order to induce by such coercion any such dealer to
18 participate or contribute to any local or national
19 advertising fund controlled directly or indirectly by
20 the factory or for any other purposes such as contest,
21 "give-aways" or other so-called sales promotional
22 devices and/or change of quotas in any sales contest;
23 or has required motor vehicle dealers, as a condition
24 to receiving their vehicle allotment, to order a

1 certain percentage of the vehicles with optional
2 equipment not specified by the new motor vehicle
3 dealer; however, nothing in this section shall
4 prohibit a factory from supporting an advertising
5 association which is open to all dealers on the same
6 basis;

7 9. Being a factory that:

- 8 a. has attempted to coerce or has coerced any new motor
9 vehicle dealer to enter into any agreement or to
10 cancel any agreement, or fails to act in good faith
11 and in a fair, equitable and nondiscriminatory manner;
12 or has directly or indirectly coerced, intimidated,
13 threatened or restrained any motor vehicle dealer; or
14 has acted dishonestly, or has failed to act in
15 accordance with the reasonable standards of fair
16 dealing,
- 17 b. has failed to compensate its dealers for the work and
18 services they are required to perform in connection
19 with the dealer's delivery and preparation obligations
20 according to the agreements on file with the
21 Commission which must be found by the Commission to be
22 reasonable, or fail to adequately and fairly
23 compensate its dealers for labor, parts and other
24 expenses incurred by such dealer to perform under and

1 comply with manufacturer's warranty agreements.

2 Adequate and fair compensation for parts shall be

3 established by the dealer submitting to the

4 manufacturer or distributor one hundred sequential

5 nonwarranty customer-paid service repair orders which

6 contain warranty-like parts, or ninety (90)

7 consecutive days of nonwarranty customer-paid service

8 repair orders which contain warranty-like parts,

9 whichever is less, covering repairs made no more than

10 one hundred eighty (180) days before the submission

11 and declaring the average percentage markup. Adequate

12 and fair compensation for labor shall be established

13 by the dealer submitting to the manufacturer or

14 distributor one hundred sequential customer-paid

15 service repair orders which contain labor charges, or

16 ninety (90) consecutive days of customer-paid service

17 repair orders which contain labor charges, whichever

18 is less. When submitting repair orders to calculate a

19 labor rate, a dealer need not include repair orders

20 for routine maintenance. A manufacturer or

21 distributor may, not later than thirty (30) days after

22 submission, rebut that declared rate in writing by

23 reasonably substantiating that the rate is inaccurate

24 or unreasonable in light of the practices of all other

franchised motor vehicle dealers in an economically similar part of the state offering the same line-make vehicles. The retail rate shall go into effect thirty (30) days following the approval by the manufacturer, subject to audit of the submitted repair orders by the franchisor and a rebuttal of the declared rate as described above. If the declared rate is rebutted, the manufacturer or distributor shall propose an adjustment in writing of the average percentage markup based on that rebuttal not later than thirty (30) days after submission. If the dealer does not agree with the proposed average percentage markup, the dealer may file a protest with the Commission not later than thirty (30) days after receipt of that proposal by the manufacturer or distributor. In the event a protest is filed, the manufacturer or distributor shall have the burden of proof to establish the new motor vehicle dealer's submitted rate was inaccurate or unreasonable in light of the practices of all other franchised motor vehicle dealers in an economically similar part of the state. A manufacturer or distributor may not retaliate against any new motor vehicle dealer seeking to exercise its rights under this provision. A manufacturer or distributor may require a dealer to

1 submit repair orders in accordance with this section
2 in order to validate a dealer's retail rate for parts
3 or labor not more often than once every twelve (12)
4 months. All claims made by dealers for compensation
5 for delivery, preparation and warranty work shall be
6 paid within thirty (30) days after approval and shall
7 be approved or disapproved within thirty (30) days
8 after receipt. When any claim is disapproved, the
9 dealer shall be notified in writing of the grounds for
10 disapproval. The dealer's delivery, preparation and
11 warranty obligations as filed with the Commission
12 shall constitute the dealer's sole responsibility for
13 product liability as between the dealer and
14 manufacturer. A factory may reasonably and
15 periodically audit a new motor vehicle dealer to
16 determine the validity of paid claims for dealer
17 compensation or any charge-backs for warranty parts or
18 service compensation. Except in cases of suspected
19 fraud, audits of warranty payments shall only be for
20 the one-year period immediately following the date of
21 the payment. A manufacturer shall reserve the right
22 to reasonable, periodic audits to determine the
23 validity of paid claims for dealer compensation or any
24 charge-backs for consumer or dealer incentives.

1 Except in cases of suspected fraud, audits of
2 incentive payments shall only be for a one-year period
3 immediately following the date of the payment. A
4 factory shall not deny a claim or charge a new motor
5 vehicle dealer back subsequent to the payment of the
6 claim unless the factory can show that the claim was
7 false or fraudulent or that the new motor vehicle
8 dealer failed to reasonably substantiate the claim by
9 the written reasonable procedures of the factory. The
10 factory shall provide written notice to a dealer of a
11 proposed charge-back that is the result of an audit
12 along with the specific audit results and proposed
13 charge-back amount. A dealer that receives notice of
14 a proposed charge-back pursuant to a factory's audit
15 has the right to file a protest with the Commission
16 within thirty (30) days after receipt of the notice of
17 the charge-back or audit results, whichever is later.
18 The factory is prohibited from implementing the
19 charge-back or debiting the dealer's account until
20 either the time frame for filing a protest has passed
21 or a final adjudication is rendered by the Commission,
22 whichever is later, unless the dealer has agreed to
23 the charge-back or charge-backs,
24

- 1 c. unreasonably fails or refuses to offer to its same
2 line-make franchised dealers all models manufactured
3 for that line-make, or unreasonably requires a dealer
4 to pay any extra fee, purchase unreasonable
5 advertising displays or other materials, or remodel,
6 renovate, or recondition the dealer's existing
7 facilities as a prerequisite to receiving a model or
8 series of vehicles. The failure to deliver any such
9 new motor vehicle shall not be considered a violation
10 of the section if the failure is not arbitrary or is
11 due to lack of manufacturing capacity or to a strike
12 or labor difficulty, a shortage of materials, a
13 freight embargo or other cause over which the
14 manufacturer has no control. However, this
15 subparagraph shall not apply to recreational vehicles
16 or limited production model vehicles,
- 17 d. except as necessary to comply with a health or safety
18 law, or to comply with a technology requirement which
19 is necessary to sell or service a motor vehicle that
20 the franchised motor vehicle dealer is authorized or
21 licensed by the franchisor to sell or service,
22 requires a new motor vehicle dealer to construct a new
23 facility or substantially renovate the new motor
24 vehicle dealer's existing facility unless the facility

1 construction or renovation is justified by the
2 economic conditions existing at the time, as well as
3 the reasonably foreseeable projections, in the
4 automotive industry. However, this subparagraph shall
5 not apply if the factory provides money, credit,
6 allowance, reimbursement, or additional vehicle
7 allocation to a dealer to compensate the dealer for
8 the cost of, or a portion of the cost of, the facility
9 construction or renovation,

10 e. requires a new motor vehicle dealer to establish an
11 exclusive facility, unless supported by reasonable
12 business, market and economic considerations;
13 provided, that this provision shall not restrict the
14 terms of any agreement for such exclusive facility
15 voluntarily entered into and supported by valuable
16 consideration separate from the new motor vehicle
17 dealer's right to sell and service motor vehicles for
18 the franchisor,

19 f. requires a new motor vehicle dealer to enter into a
20 site-control agreement covering any or all of the new
21 motor vehicle dealer's facilities or premises;
22 provided, that this provision shall not restrict the
23 terms of any site-control agreement voluntarily
24 entered into and supported by valuable consideration

1 separate from the new motor vehicle dealer's right to
2 sell and service motor vehicles for the franchisor.
3 Notwithstanding the foregoing or the terms of any
4 site-control agreement, a site-control agreement
5 automatically extinguishes if all of the factory's
6 franchises that operated from the location that are
7 the subject of the site-control agreement are
8 terminated by the factory as part of the
9 discontinuance of a product line, or

10 g. requires a new motor vehicle dealer to purchase goods
11 or services for the construction, renovation, or
12 improvement of the dealer's facility from a vendor
13 chosen by the factory if goods or services available
14 from other sources are of substantially similar
15 quality and design and comply with all applicable
16 laws; provided, however, that such goods are not
17 subject to the factory's intellectual property or
18 trademark rights and the new motor vehicle dealer has
19 received the factory's approval, which approval may
20 not be unreasonably withheld. Nothing in this
21 subparagraph may be construed to allow a new motor
22 vehicle dealer to impair or eliminate a factory's
23 intellectual property, trademark rights or trade dress
24 usage guidelines. Nothing in this section prohibits

1 the enforcement of a voluntary agreement between the
2 factory and the new motor vehicle dealer where
3 separate and valuable consideration has been offered
4 and accepted;

5 10. Being a factory that establishes a system of motor vehicle
6 allocation or distribution which is unfair, inequitable or
7 unreasonably discriminatory. Upon the request of any dealer
8 franchised by it, a factory shall disclose in writing to the dealer
9 the basis upon which new motor vehicles are allocated, scheduled and
10 delivered among the dealers of the same line-make for that factory;

11 11. Being a factory that sells directly or indirectly new motor
12 vehicles to any retail consumer in the state except through a new
13 motor vehicle dealer holding a franchise for the line-make that
14 includes the new motor vehicle. This paragraph does not apply to
15 factory sales of new motor vehicles to its employees, family members
16 of employees, retirees and family members of retirees, not-for-
17 profit organizations or the federal, state or local governments.
18 The provisions of this paragraph shall not preclude a factory from
19 providing information to a consumer for the purpose of marketing or
20 facilitating a sale of a new motor vehicle or from establishing a
21 program to sell or offer to sell new motor vehicles through
22 participating dealers;

23 12. a. Being a factory which directly or indirectly:
24

- (1) owns any ownership interest or has any financial interest in a new motor vehicle dealer or any person who sells products or services to the public,
- (2) operates or controls a new motor vehicle dealer, or
- (3) acts in the capacity of a new motor vehicle dealer.

b. (1) This paragraph does not prohibit a factory from owning or controlling a new motor vehicle dealer while in a bona fide relationship with a dealer development candidate who has made a substantial initial investment in the franchise and whose initial investment is subject to potential loss. The dealer development candidate can reasonably expect to acquire full ownership of a new motor vehicle dealer within a reasonable period of time not to exceed ten (10) years and on reasonable terms and conditions. The ten-year acquisition period may be expanded for good cause shown.

- (2) This paragraph does not prohibit a factory from owning, operating, controlling or acting in the capacity of a motor vehicle dealer for a period not to exceed twelve (12) months during the

1 transition from one dealer to another dealer if
2 the dealership is for sale at a reasonable price
3 and on reasonable terms and conditions to an
4 independent qualified buyer. On showing by a
5 factory of good cause, the Oklahoma Motor Vehicle
6 Commission may extend the time limit set forth
7 above; extensions may be granted for periods not
8 to exceed twelve (12) months.

9 (3) This paragraph does not prohibit a factory from
10 owning, operating or controlling or acting in the
11 capacity of a motor vehicle dealer which was in
12 operation prior to January 1, 2000.

13 (4) This paragraph does not prohibit a factory from
14 owning, directly or indirectly, a minority
15 interest in an entity that owns, operates or
16 controls motor vehicle dealerships of the same
17 line-make franchised by the manufacturer,
18 provided that each of the following conditions
19 are met:

20 (a) all of the motor vehicle dealerships selling
21 the motor vehicles of that manufacturer in
22 this state trade exclusively in the line-
23 make of that manufacturer,
24

- (b) all of the franchise agreements of the manufacturer confer rights on the dealer of the line-make to develop and operate, within a defined geographic territory or area, as many dealership facilities as the dealer and manufacturer shall agree are appropriate,
- (c) at the time the manufacturer first acquires an ownership interest or assumes operation, the distance between any dealership thus owned or operated and the nearest unaffiliated motor vehicle dealership trading in the same line-make is not less than seventy (70) miles,
- (d) during any period in which the manufacturer has such an ownership interest, the manufacturer has no more than three franchise agreements with new motor vehicle dealers licensed by the Oklahoma Motor Vehicle Commission to do business within the state, and
- (e) prior to January 1, 2000, the factory shall have furnished or made available to prospective motor vehicle dealers an offering-circular in accordance with the

1 Trade Regulation Rule on Franchising of the
2 Federal Trade Commission, and any guidelines
3 and exemptions issued thereunder, which
4 disclose the possibility that the factory
5 may from time to time seek to own or
6 acquire, directly or indirectly, ownership
7 interests in retail dealerships;

8 13. Being a factory which directly or indirectly makes
9 available for public disclosure any proprietary information provided
10 to the factory by a new motor vehicle dealer, other than in
11 composite form to dealers in the same line-make or in response to a
12 subpoena or order of the Commission or a court. Proprietary
13 information includes, but is not limited to, information ~~based on:~~

- 14 a. ~~any information~~ derived from monthly financial
15 statements provided to the factory, and
- 16 b. ~~any information~~ regarding any aspect of the
17 profitability of a particular new motor vehicle
18 dealer;

19 14. Being a factory which does not provide or direct leads in a
20 fair, equitable and timely manner. Nothing in this paragraph shall
21 be construed to require a factory to disregard the preference of a
22 consumer in providing or directing a lead;

23 15. Being a factory which used the customer list of a new motor
24 vehicle dealer for the purpose of unfairly competing with dealers;

1 16. Being a factory which prohibits a new motor vehicle dealer
2 from relocating after a written request by such new motor vehicle
3 dealer if:

- 4 a. the facility and the proposed new location satisfies
5 or meets the written reasonable guidelines of the
6 factory. Reasonable guidelines do not include site
7 control unless agreed to as set forth in subparagraphs
8 e and f of paragraph 9 of this subsection,
- 9 b. the proposed new location is within the area of
10 responsibility of the new motor vehicle dealer
11 pursuant to Section 578.1 of this title, and
- 12 c. the factory has sixty (60) days from receipt of the
13 new motor vehicle dealer's relocation request to
14 approve or deny the request. The failure to approve
15 or deny the request within the sixty-day time frame
16 shall constitute approval of the request;

17 17. Being a factory which prohibits a new motor vehicle dealer
18 from adding additional line-makes to its existing facility, if,
19 after adding the additional line-makes, the facility satisfies the
20 written reasonable capitalization standards and facility guidelines
21 of each factory. Reasonable facility guidelines do not include a
22 requirement to maintain site control unless agreed to by the dealer
23 as set forth in subparagraphs e and f of paragraph 9 of this
24 subsection;

1 18. Being a factory that increases prices of new motor vehicles
2 which the new motor vehicle dealer had ordered for retail consumers
3 and notified the factory prior to the dealer's receipt of the
4 written official price increase notification. A sales contract
5 signed by a retail consumer accompanied with proof of order
6 submission to the factory shall constitute evidence of each such
7 order, provided that the vehicle is in fact delivered to the
8 customer. Price differences applicable to new models or series
9 motor vehicles at the time of the introduction of new models or
10 series shall not be considered a price increase for purposes of this
11 paragraph. Price changes caused by any of the following shall not
12 be subject to the provisions of this paragraph:

- 13 a. the addition to a motor vehicle of required or
- 14 optional equipment pursuant to state or federal law,
- 15 b. revaluation of the United States dollar in the case of
- 16 foreign-made vehicles or components, or
- 17 c. an increase in transportation charges due to increased
- 18 rates imposed by common or contract carriers;

19 19. Being a factory that requires a new motor vehicle dealer to
20 participate monetarily in an advertising campaign or contest, or
21 purchase any promotional materials, showroom or other display
22 decoration or materials at the expense of the new motor vehicle
23 dealer without consent of the dealer, which consent shall not be
24 unreasonably withheld;

1 20. Being a factory that denies any new motor vehicle dealer
2 the right of free association with any other new motor vehicle
3 dealer for any lawful purpose, unless otherwise permitted by this
4 chapter; or

5 21. Being a factory that requires a new motor vehicle dealer to
6 sell, offer to sell or sell exclusively an extended service
7 contract, extended maintenance plan or similar product, such as gap
8 products offered, endorsed or sponsored by the factory by the
9 following means:

- 10 a. by an act or statement from the factory that will in
11 any manner adversely impact the dealer,
- 12 b. by measuring the dealer's performance under the
13 franchise based on the sale of extended service
14 contracts, extended maintenance plans or similar
15 products offered, endorsed or sponsored by the
16 manufacturer or distributor.

17 B. Notwithstanding the terms of any franchise agreement, in the
18 event of a proposed sale or transfer of a dealership, the
19 manufacturer or distributor shall be permitted to exercise a right
20 of first refusal to acquire the assets or ownership interest of the
21 dealer of the new vehicle dealership, if such sale or transfer is
22 conditioned upon the manufacturer or dealer entering into a dealer
23 agreement with the proposed new owner or transferee, only if all the
24 following requirements are met:

1 1. To exercise its right of first refusal, the factory must
2 notify the dealer in writing within sixty (60) days of receipt of
3 the completed proposal for the proposed sale transfer;

4 2. The exercise of the right of first refusal will result in
5 the dealer and the owner of the dealership receiving the same or
6 greater consideration as they have contracted to receive in
7 connection with the proposed change of ownership or transfer;

8 3. The proposed sale or transfer of the assets of the
9 dealership does not involve the transfer or sale to a member or
10 members of the family of one or more dealer owners, or to a
11 qualified manager or a partnership or corporation controlled by such
12 persons; and

13 4. The factory agrees to pay the reasonable expenses, including
14 attorney fees which do not exceed the usual, customary and
15 reasonable fees charged for similar work done for other clients
16 incurred by the proposed new owner and transferee prior to the
17 exercise by the factory of its right of first refusal in negotiating
18 and implementing the contract for the proposed sale or transfer of
19 the dealership or dealership assets. Notwithstanding the foregoing,
20 no payment of expenses and attorney fees shall be required if the
21 proposed new dealer or transferee has not submitted or caused to be
22 submitted an accounting of those expenses within thirty (30) days of
23 receipt of the written request of the factory for such an
24

1 accounting. The accounting may be requested by a factory before
2 exercising its right of first refusal.

3 C. Nothing in this section shall prohibit, limit, restrict or
4 impose conditions on:

5 1. Business activities, including without limitation the
6 dealings with motor vehicle manufacturers and the representatives
7 and affiliates of motor vehicle manufacturers, of any person that is
8 primarily engaged in the business of short-term, not to exceed
9 twelve (12) months, rental of motor vehicles and industrial and
10 construction equipment and activities incidental to that business,
11 provided that:

12 a. any motor vehicle sold by that person is limited to
13 used motor vehicles that have been previously used
14 exclusively and regularly by that person in the
15 conduct of business and used motor vehicles traded in
16 on motor vehicles sold by that person,

17 b. warranty repairs performed by that person on motor
18 vehicles are limited to those motor vehicles that it
19 owns, previously owned or takes in trade, and

20 c. motor vehicle financing provided by that person to
21 retail consumers for motor vehicles is limited to used
22 vehicles sold by that person in the conduct of
23 business; or
24

1 2. The direct or indirect ownership, affiliation or control of
2 a person described in paragraph 1 of this subsection.

3 SECTION 3. AMENDATORY 47 O.S. 2011, Section 583, as last
4 amended by Section 24, Chapter 161, O.S.L. 2020 (47 O.S. Supp. 2020,
5 Section 583), is amended to read as follows:

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

15 2. a. Any person engaging, acting, or serving in the
16 capacity of a used motor vehicle dealer, a
17 manufactured home dealer, restricted manufactured home
18 park dealer, a manufactured home installer, or a
19 manufactured home manufacturer, or having more than
20 one place where any such business, or combination of
21 businesses, is carried on or conducted shall be
22 required to obtain and hold a current license for each
23 such business, in which engaged.

1 b. If after a hearing in accordance with the provisions
2 of Section 585 of this title, the Oklahoma Used Motor
3 Vehicle and Parts Commission shall find any person
4 installing a mobile or manufactured home to be in
5 violation of any of the provisions of this act, such
6 person may be subject to an administrative fine of not
7 more than Five Hundred Dollars (\$500.00) for each
8 violation. Each day a person is in violation of this
9 act may constitute a separate violation. All
10 administrative fines collected pursuant to the
11 provisions of this subparagraph shall be deposited in
12 the fund established in Section 582 of this title.
13 Administrative fines imposed pursuant to this
14 subparagraph may be enforceable in the district courts
15 of this state.

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

1 B. 1. Applications for licenses required to be obtained under
2 the provisions of the Oklahoma Used Motor Vehicle and Parts
3 Commission shall be verified by the oath or affirmation of the
4 applicant and shall be on forms prescribed by the Commission and
5 furnished to the applicants, and shall contain such information as
6 the Commission deems necessary to enable it to fully determine the
7 qualifications and eligibility of the several applicants to receive
8 the license or licenses applied for. The Commission shall require
9 in the application, or otherwise, information relating to:

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

22 2. All applications for license or licenses shall be
23 accompanied by the appropriate fee or fees in accordance with the
24 schedule hereinafter provided. In the event any application is

1 denied and the license applied for is not issued, the entire license
2 fee shall be returned to the applicant.

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

17 4. A certificate of registration shall permit the registered
18 person to engage in the activities of a used motor vehicle
19 salesperson. A salesperson shall be deemed to be temporarily
20 approved and allowed to sell vehicles when applications and fees are
21 on file with the Commission.

22 C. The schedule of license and inspection fees to be charged
23 and received by the Commission for the licenses and inspections
24 issued hereunder shall be as follows:

1 1. For each used motor vehicle dealer's license and each
2 wholesale used motor vehicle dealer's license, Six Hundred Dollars
3 (\$600.00). If a used motor vehicle dealer or a wholesale used motor
4 vehicle dealer has once been licensed by the Commission in the
5 classification for which he or she applies for a renewal of the
6 license, the fee for each subsequent renewal shall be Three Hundred
7 Dollars (\$300.00); provided, if an applicant holds a license to
8 conduct business as an automotive dismantler and parts recycler
9 issued pursuant to Section 591.1 et seq. of this title, the initial
10 fee shall be Two Hundred Dollars (\$200.00) and the renewal fee shall
11 be Two Hundred Dollars (\$200.00). If an applicant is applying
12 simultaneously for a license under this paragraph and a license
13 under paragraph 1 of Section 591.5 of this title, the initial
14 application fee shall be Four Hundred Dollars (\$400.00). For the
15 reinstatement of a used motor vehicle dealer's license after
16 revocation for cancellation or expiration of insurance pursuant to
17 subsection F of this section, the fee shall be Two Hundred Dollars
18 (\$200.00);

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

22 3. For each holder who possesses a valid new motor vehicle
23 dealer's license from the Oklahoma Motor Vehicle Commission, Two
24 Hundred Dollars (\$200.00) shall be the initial fee for a used motor

1 vehicle license and the fee for each subsequent renewal shall be Two
2 Hundred Dollars (\$200.00);

3 4. a. For each manufactured home dealer's license or a
4 restricted manufactured home park dealer's license,
5 Six Hundred Dollars (\$600.00), and for each place of
6 business in addition to the principal place of
7 business, Four Hundred Dollars (\$400.00), and

8 b. For each renewal of a manufactured home dealer's
9 license or a restricted manufactured home park
10 dealer's license, and renewal for each place of
11 business in addition to the principal place of
12 business, Three Hundred Dollars (\$300.00);

13 5. a. For each manufactured home installer's license, Four
14 Hundred Dollars (\$400.00), and

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

17 6. a. For each manufactured home manufacturer selling
18 directly to a licensed manufactured home dealer in
19 this state, One Thousand Five Hundred Dollars
20 (\$1,500.00), and

21 b. For each renewal of a manufactured home manufacturer's
22 license, One Thousand Five Hundred Dollars
23 (\$1,500.00);
24

1 7. Any manufactured home manufacturer who sells a new
2 manufactured home to be shipped to or sited in the State of Oklahoma
3 shall pay an installation inspection fee of Seventy-five Dollars
4 (\$75.00) for each new single-wide manufactured home and One Hundred
5 Twenty-five Dollars (\$125.00) for each new multi-floor manufactured
6 home; and

7 8. A used manufactured home inspection fee of Seventy-five
8 Dollars (\$75.00) shall be paid by the installer at or before the
9 time of installation of any used manufactured home sited and
10 installed in the State of Oklahoma.

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

22 2. The license issued to each manufactured home installer, and
23 each manufactured home manufacturer shall specify the location of
24 the place of business. If the business location is changed, the

1 Oklahoma Used Motor Vehicle and Parts Commission shall be notified
2 immediately of the change and the Commission may endorse the change
3 of location on the license without charge. The license of each
4 licensee shall be posted in a conspicuous place in the place or
5 places of business of the licensee.

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

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

1 (\$50,000.00) shall only be required to have a bond in
2 the amount of Twenty-five Thousand Dollars
3 (\$25,000.00).

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

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

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

1 procure and file with the Commission a good and
2 sufficient bond in the amount of Fifteen Thousand
3 Dollars (\$15,000.00), in addition to any other bonds
4 required.

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

10 f. Each manufactured home manufacturing facility selling
11 directly to a licensed manufactured home dealer in
12 this state shall procure and file with the Commission
13 a good and sufficient bond in the amount of Thirty
14 Thousand Dollars (\$30,000.00). In addition to all
15 other conditions and requirements set forth herein,
16 the bond shall require the availability of prompt and
17 full warranty service by the manufacturer to comply
18 with all warranties expressed or implied in connection
19 with each manufactured home which is manufactured for
20 resale in this state. A manufacturer may not sell,
21 exchange, or lease-purchase a manufactured home to a
22 person in this state who is not a licensed
23 manufactured home dealer.
24

1 g. The bond shall be approved as to form by the Attorney
2 General and conditioned that the applicant shall not
3 practice fraud, make any fraudulent representation, or
4 violate any of the provisions of this act in the
5 conduct of the business for which the applicant is
6 licensed. One of the purposes of the bond is to
7 provide reimbursement for any loss or damage suffered
8 by any person by reason of issuance of a certificate
9 of title by a used motor vehicle dealer, a wholesale
10 used motor vehicle dealer, a restricted manufactured
11 home park dealer or a manufactured home dealer.

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

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

23 G. Any manufactured home dealer or restricted manufactured home
24 park dealer is required to furnish and keep in force a minimum of

1 One Hundred Thousand Dollars (\$100,000.00) of garage liability or
2 general liability with products and completed operations insurance
3 coverage.

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

8 SECTION 4. AMENDATORY Section 8, Chapter 79, O.S.L. 2019
9 (47 O.S. Supp. 2020, Section 583.1), is amended to read as follows:

10 Section 583.1. A. It shall be punishable by an administrative
11 fine not to exceed Five Hundred Dollars (\$500.00) for any person,
12 firm, association, corporation or trust to engage in business as, or
13 serve in the capacity of, a used motor vehicle salesperson in this
14 state without first obtaining a certificate of registration with the
15 Oklahoma Used Motor Vehicle and Parts Commission. However, a person
16 may sell used motor vehicles without obtaining a separate used motor
17 vehicle salesperson's certificate of registration if the person has
18 a certificate of registration from the Oklahoma Motor Vehicle
19 Commission to sell new or unused motor vehicles at a new motor
20 vehicle dealer's licensed franchise location which also sells used
21 vehicles; provided, such a person shall only be authorized to sell
22 used motor vehicles for the dealer at the new motor vehicle dealer's
23 licensed franchise location and to represent the new motor vehicle
24 dealer at used motor vehicle auctions. The cost of the registration

1 for each salesperson shall be Fifty Dollars (\$50.00) to be renewed
2 biennially and, for a transfer, Twenty-five Dollars (\$25.00). ~~The~~
3 ~~cost of registration for each new salesperson shall be set at~~
4 ~~Twenty-five Dollars (\$25.00) to be renewed annually.~~ The cost of
5 registration is to be borne by the employing entity of the ~~new~~
6 salesperson. The Oklahoma Used Motor Vehicle and Parts Commission
7 shall promulgate rules and procedures necessary for the
8 implementation and creation of ~~the~~ a registry of salespersons and
9 the issuance of certificates of registration.

10 B. It shall be punishable by an administrative fine not to
11 exceed Five Hundred Dollars (\$500.00) for any person, firm,
12 association, corporation or trust to engage in business as, or serve
13 in the capacity of, a manufactured home salesperson in this state
14 without first obtaining a certificate of registration with the
15 Oklahoma Used Motor Vehicle and Parts Commission. ~~The cost of~~
16 ~~registration for each new salesperson shall be set at Twenty-five~~
17 ~~Dollars (\$25.00) to be renewed annually.~~ The cost of the
18 registration for each salesperson shall be Fifty Dollars (\$50.00) to
19 be renewed biennially and, for a transfer, Twenty-five Dollars
20 (\$25.00). The cost of registration is to be borne by the employing
21 entity of the ~~new~~ salesperson. The Commission shall promulgate
22 rules and procedures necessary for the implementation and creation
23 of ~~the~~ a registry of salespersons and the issuance of certificates
24 of registration.

1 SECTION 5. AMENDATORY 47 O.S. 2011, Section 584, as last
2 amended by Section 6, Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020,
3 Section 584), is amended to read as follows:

4 Section 584. A. The Oklahoma Used Motor Vehicle and Parts
5 Commission may deny an application for a license, impose a fine not
6 to exceed One Thousand Dollars (\$1,000.00) per occurrence and/or
7 revoke or suspend a license after it has been granted, when any
8 provision of Sections 581 through 588 of this title is violated or
9 for any of the following reasons:

10 1. On satisfactory proof of unfitness of the applicant or the
11 licensee, as the case may be, under the standards established by
12 Sections 581 through 588 of this title;

13 2. For fraud practices or any material misstatement made by an
14 applicant in any application for license under the provisions of
15 Sections 581 through 588 of this title;

16 3. For any willful failure to comply with any provision of
17 Section 581 et seq. of this title or with any rule promulgated by
18 the Commission under authority vested in it by Sections 581 through
19 588 of this title;

20 4. Change of condition after license is granted resulting in
21 failure to maintain the qualifications for license;

22 5. Continued or flagrant violation of any of the rules of the
23 Commission;

1 6. Being a used motor vehicle dealer, a used motor vehicle
2 salesperson, a wholesale used motor vehicle dealer, or a
3 manufactured home dealer, a restricted manufactured home park
4 dealer, a manufactured home installer, a manufactured home
5 salesperson or a manufactured home manufacturer who:

- 6 a. resorts to or uses any false or misleading advertising
7 in connection with business as a used motor vehicle
8 dealer, wholesale used motor vehicle dealer or a
9 restricted manufactured home park dealer or
10 manufactured home dealer, installer or manufacturer,
- 11 b. has committed any unlawful act which resulted in the
12 revocation of any similar license in another state,
- 13 c. has been convicted of a crime involving moral
14 turpitude,
- 15 d. has committed a fraudulent act in selling, purchasing
16 or otherwise dealing in motor vehicles or manufactured
17 homes or has misrepresented the terms and conditions
18 of a sale, purchase or contract for sale or purchase
19 of a motor vehicle or manufactured home or any
20 interest therein including an option to purchase such
21 motor vehicles or manufactured homes,
- 22 e. has engaged in business under a past or present
23 license issued pursuant to Sections 581 through 588 of
24

- 1 this title, in such a manner as to cause injury to the
2 public or to those with whom the licensee is dealing,
3 f. has failed to meet or maintain the conditions and
4 requirements necessary to qualify for the issuance of
5 a license,
6 g. has failed or refused to furnish and keep in force any
7 bond required under Sections 581 through 588 of this
8 title,
9 h. has installed or attempted to install a manufactured
10 home in an unworkmanlike manner, or
11 i. employs ~~unlicensed persons~~ a person in connection with
12 the sale of manufactured homes without first obtaining
13 a certificate of registration for the person;

14 7. Being a used motor vehicle dealer who:

- 15 a. does not have an established place of business,
16 b. employs ~~unlicensed persons~~ a person in connection with
17 the sale of used vehicles without first obtaining a
18 certificate of registration for the person,
19 c. fails or refuses to furnish or keep in force single
20 limit liability insurance on any vehicle offered for
21 sale and otherwise required under the financial
22 responsibility laws of this state, or
23
24

1 d. is not operating from the address shown on the license
2 if this change has not been reported to the
3 Commission; or

4 8. Being a manufactured home dealer or a restricted
5 manufactured home park dealer who:

- 6 a. does not have an established place of business,
7 b. fails or refuses to furnish or keep in force garage
8 liability and completed operations insurance, or
9 c. is not operating from the address shown on the license
10 if this change has not been reported to the
11 Commission.

12 B. 1. The Commission shall deny an application for a license,
13 or revoke or suspend a license after it has been granted, if a
14 manufactured home dealer does not meet the following guidelines and
15 restrictions:

- 16 a. a display area for manufactured homes which is easily
17 accessible, with sufficient parking for the public,
18 b. an office for conducting business where the books,
19 records, and files are kept, with access to a restroom
20 for the public,
21 c. a place of business which meets all zoning, occupancy
22 and other requirements of the appropriate local
23 government and regular occupancy by a person, firm, or
24

1 corporation engaged in the business of selling
2 manufactured homes, and

- 3 d. a place of business which is separate and apart from
4 any other dealer's location.

5 2. The Commission shall deny an application for a restricted
6 manufactured home park dealer license, or revoke or suspend a
7 license after it has been granted, if a manufactured home park
8 dealer does not satisfy the following guidelines and restrictions:

- 9 a. only mobile or manufactured homes that are "ready for
10 occupancy" are sold or offered for sale,
11 b. maintains an office for conducting business where the
12 books, records, and files are kept, with access to a
13 restroom for the public,
14 c. maintains a place of business which meets all zoning,
15 occupancy and other requirements of the appropriate
16 local government and regular occupancy by a person,
17 firm or corporation engaged in the business of selling
18 manufactured homes inside a park, and
19 d. maintains a place of business which is separate and
20 apart from any other dealer's location.

21 C. The Commission shall deny an application for a license, or
22 revoke or suspend a license after it has been granted, if a
23 manufactured home installer:
24

1 1. Installs or attempts to install a manufactured home in a
2 manner that is not in compliance with installation standards as set
3 by the Commission pursuant to rule; or

4 2. Violates or fails to comply with any applicable rule as
5 promulgated by the Commission concerning manufactured home
6 installers.

7 D. The Commission shall deny an application for a license, or
8 revoke or suspend a license after it has been granted, if a
9 manufactured home manufacturer violates or fails to comply with any
10 applicable rule as promulgated by the Commission concerning
11 manufactured home manufacturers.

12 E. The Commission shall deny an application for a license by a
13 motor vehicle manufacturer or factory if the application is for the
14 purpose of selling used motor vehicles to any retail consumer in the
15 state, other than through its retail franchised dealers, or acting
16 as a broker between a seller and a retail buyer. This subsection
17 does not prohibit a manufacturer from selling used motor vehicles
18 where the retail customer is a nonprofit organization or a federal,
19 state, or local government or agency. This subsection does not
20 prohibit a manufacturer from providing information to a consumer for
21 the purpose of marketing or facilitating the sale of used motor
22 vehicles or from establishing a program to sell or offer to sell
23 used motor vehicles through the manufacturer's retail franchised
24 dealers as provided for in Sections 561 through 580.2 of this title.

1 This subsection shall not prevent a factory from obtaining a
2 wholesale used motor vehicle dealer's license or the factory's
3 financing subsidiary from obtaining a wholesale used motor vehicle
4 dealer's license.

5 F. If the Commission denies issuance of a license the
6 Commission shall provide the grounds for the action to the applicant
7 in writing and allow the applicant sixty (60) days to resolve any
8 issues that are the grounds for the action.

9 G. Each of the aforementioned grounds for suspension,
10 revocation, or denial of issuance or renewal of license shall also
11 constitute a violation of Sections 581 through 588 of this title,
12 unless the person involved has been tried and acquitted of the
13 offense constituting such grounds.

14 The suspension, revocation or refusal to issue or renew a
15 license or the imposition of any other penalty by the Commission
16 shall be in addition to any penalty which might be imposed upon any
17 licensee upon a conviction at law for any violation of Sections 581
18 through 588 of this title.

19 SECTION 6. AMENDATORY 47 O.S. 2011, Section 596.2, is
20 amended to read as follows:

21 Section 596.2. A. It shall be unlawful for any person, firm,
22 association, corporation or trust to engage in business as, or serve
23 in the capacity of, or act as a new recreational vehicle dealer, new
24 recreational vehicle manufacturer, new recreational vehicle factory

1 representative or new recreational vehicle salesperson in this state
2 without first obtaining a license or salesperson registration as
3 provided for by law.

4 B. The Oklahoma Motor Vehicle Commission (OMVC) shall issue new
5 recreational vehicle dealer, manufacturer and factory representative
6 licenses and recreational vehicle salesperson registrations upon
7 application. The Commission shall promulgate rules and forms to
8 implement and enforce the provisions of this section.

9 C. The schedule of license fees and salesperson registration
10 fees to be charged and received by the ~~OMVC~~ Oklahoma Motor Vehicle
11 Commission for the licenses issued hereunder shall be as follows:

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

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

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

22 4. For each fifth wheel trailer, travel trailer, camping
23 trailer and truck camper dealer, an initial fee of Three Hundred
24 Dollars (\$300.00) per manufacturer represented at each licensed

1 location with an annual renewal fee of One Hundred Dollars (\$100.00)
2 per manufacturer represented at each location; and

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

6 C. A manufacturer shall not sell or display for sale a
7 recreational vehicle in this state except to a dealer or through a
8 dealer that is licensed by the ~~OMVC~~ Commission to sell recreational
9 vehicles in the State of Oklahoma. The manufacturer shall also be
10 required to have a dealer agreement with the dealer that meets the
11 requirements of ~~this act~~ the Recreational Vehicle Franchise Act and
12 is signed by both parties.

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

19 SECTION 7. AMENDATORY 47 O.S. 2011, Section 596.14, is
20 amended to read as follows:

21 Section 596.14. The Oklahoma Motor Vehicle Commission may deny
22 an application for a license, revoke or suspend a license, impose a
23 fine against a manufacturer or distributor in an amount not to
24 exceed Ten Thousand Dollars (\$10,000.00) per occurrence, or impose a

1 fine against a dealer in an amount not to exceed One Thousand
2 Dollars (\$1,000.00) per occurrence if any provision of the
3 Recreational Vehicle Franchise Act ~~of Title 47 of the Oklahoma~~
4 ~~Statutes~~ is violated or for any of the following reasons:

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

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

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

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

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

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

- 1 b. uses any false or misleading advertising in connection
2 with business as a new recreational vehicle dealer or
3 vehicle salesperson,
4 c. has committed any unlawful act which resulted in the
5 revocation of any similar license in another state,
6 d. has failed or refused to perform any written agreement
7 with any retail buyer involving the sale of a
8 recreational vehicle,
9 e. has been convicted of a crime involving moral
10 turpitude,
11 f. has committed a fraudulent act in selling, purchasing
12 or otherwise dealing in new recreational vehicles or
13 has misrepresented the terms and conditions of a sale,
14 purchase or contract for sale or purchase of a new
15 recreational vehicle or any interest therein including
16 an option to purchase such vehicle, or
17 g. has failed to meet or maintain the conditions and
18 requirements necessary to qualify for the issuance of
19 a license~~+~~;

20 ~~6. Being a~~

- 21 h. has employed an unregistered new recreational vehicle
22 salesperson ~~who is not employed as such by a licensed~~
23 ~~new recreational vehicle dealer;~~

24 ~~7.~~ 6. Being a new recreational vehicle dealer who:

- 1 a. does not have an established place of business,
- 2 b. does not provide for a suitable repair shop separate
- 3 from the display room with ample space to repair or
- 4 recondition one or more recreational vehicles at the
- 5 same time and equipped with tools, equipment, and
- 6 replacement parts as may be necessary for the
- 7 servicing of recreational vehicles in such a manner as
- 8 to make such vehicles comply with the safety laws of
- 9 this state and properly fulfill the warranty
- 10 obligation of the dealer or manufacturer,
- 11 c. does not hold a dealer agreement in effect with a
- 12 manufacturer or distributor of new or unused
- 13 recreational vehicles for the sale of the same and is
- 14 not authorized by the manufacturer or distributor to
- 15 render predelivery preparation of such vehicles sold
- 16 to purchasers and perform authorized postsale work
- 17 pursuant to the warranty of the manufacturer or
- 18 distributor,
- 19 d. employs ~~unlicensed~~ unregistered salespersons or
- 20 employs or utilizes the services of used recreational
- 21 vehicle lots, dealers or other ~~unlicensed~~ unregistered
- 22 persons in connection with the sale of new
- 23 recreational vehicles; ~~or~~

24 ~~8.~~ 7. Being a factory that has:

- 1 a. induced or attempted to induce by means of coercion or
2 intimidation any new recreational vehicle dealer:
- 3 (1) to accept delivery of any recreational vehicle or
4 vehicles, parts or accessories for recreational
5 vehicles, or any other commodities including
6 advertising material which shall not have been
7 ordered by the new recreational vehicle dealer,
- 8 (2) to order or accept delivery of any recreational
9 vehicle with special features, appliances,
10 accessories or equipment not included in the list
11 price of the recreational vehicles as publicly
12 advertised by the manufacturer of the
13 recreational vehicle, or
- 14 (3) to order or accept delivery of any parts,
15 accessories, equipment, machinery, tools,
16 appliances or any commodity whatsoever,
- 17 b. induced under threat or discrimination by the
18 withholding from delivery to a recreational vehicle
19 dealer certain models of recreational vehicles,
20 changing or amending unilaterally the allotment of
21 recreational vehicles of a dealer or withholding and
22 delaying delivery of such vehicles out of the ordinary
23 course of business, in order to induce a dealer by
24 such coercion to participate or contribute to any

1 local or national advertising fund controlled directly
2 or indirectly by the factory or for any other purposes
3 including contests, giveaways, other sales promotional
4 devices, or change of quotas in any sales contest, or
5 c. required recreational vehicle dealers, as a condition
6 of receiving the vehicle allotment of the dealer, to
7 order a certain percentage of the recreational
8 vehicles with optional equipment not specified by the
9 new recreational vehicle dealer; however, nothing in
10 this paragraph shall prohibit a factory from
11 supporting an advertising association which is open to
12 all dealers on the same basis; or

13 8. Has employed unlicensed factory representatives.

14 The Commission may deny any application for license, or suspend
15 or revoke a license issued, or impose a fine, only after a hearing
16 for which the applicant or licensee affected shall be given at least
17 ten (10) days' written notice specifying the reason for denying the
18 applicant a license, or, in the case of a revocation or suspension
19 or imposition of a fine, the offense which the licensee is alleged
20 to have committed. The notice may be served as provided by law for
21 the service of notices, or mailing a copy by registered mail to the
22 last-known residence or business address of the applicant or
23 licensee. The hearing on alleged violations shall be at such time
24 and place as the Commission may prescribe and the aforementioned

1 notice shall further specify the time and place. If the applicant
2 or licensee is a motor vehicle salesperson, factory representative
3 or distributor representative, the Commission shall in like manner
4 additionally notify the person, firm, association, corporation or
5 trust with whom he or she is associated, or in whose association he
6 or she is about to enter. The Commission shall have the power to
7 compel the production of all records, papers and other documents
8 which may be deemed relevant to the proceeding bearing upon the
9 complaints. The Commission shall have the power to subpoena and
10 bring before it any person, or take testimony of any person by
11 deposition, with the same fees and mileage and in the same manner as
12 prescribed in the proceedings before courts of the state in civil
13 cases. Any party to the hearing shall have the right to the
14 attendance of witnesses ~~in~~ on his or her behalf upon designating to
15 the Commission the person or persons sought to be subpoenaed.

16 SECTION 8. This act shall become effective November 1, 2021.”
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1 Passed the Senate the 21st day of April, 2021.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

7
8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 1149

By: Osburn of the House

3 and

4 Rogers of the Senate
5
6

7 An Act relating to motor vehicles; amending Section
8 7, Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020,
9 Section 564.2), which relates to certificates of
10 registration for new motor vehicle salespersons;
11 requiring any administrative fines to be paid by the
12 employing entity; amending 47 O.S. 2011, Section 565,
13 as last amended by Section 2, Chapter 79, O.S.L. 2019
14 (47 O.S. Supp. 2020, Section 565), which relates to
15 Oklahoma Motor Vehicle Commission licensing;
16 requiring certain employees to have certificates of
17 registration; amending 47 O.S. 2011, Section 583, as
18 last amended by Section 24, Chapter 161, O.S.L. 2020
19 (47 O.S. Supp. 2020, Section 583), which relates to
20 used motor vehicle licensing; providing for
21 registered persons to engage in certain activities;
22 providing for temporary approval; amending Section 8,
23 Chapter 79, O.S.L. 2019 (47 O.S. Supp. 2020, Section
24 583.1), which relates to certificates of
registration; allowing certain new vehicle
salespeople to sell used vehicles; providing for
registration fees and renewal; amending 47 O.S. 2011,
Section 584, as last amended by Section 6, Chapter
79, O.S.L. 2019 (47 O.S. Supp. 2020, Section 584),
which relates to Oklahoma Used Motor Vehicle and
Parts Commission licensing; allowing for the denial
of application and imposition of fines for certain
salespeople; amending 47 O.S. 2011, Section 596.2,
which relates to new recreational vehicle dealer
licenses; requiring new recreational vehicle
salespersons be registered; amending 47 O.S. 2011,
Section 596.14, which relates to denial of
application for license; allowing for fines for
employment of unregistered salespersons; providing
procedure for denial, revocation, suspension and

1 issuance of fines for registered salespersons; and
2 providing an effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 9. AMENDATORY Section 7, Chapter 79, O.S.L. 2019
6 (47 O.S. Supp. 2020, Section 564.2), is amended to read as follows:

7 Section 564.2 It shall be punishable by an administrative fine
8 not to exceed Five Hundred Dollars (\$500.00) for any person, firm,
9 association, corporation or trust to engage in business as, or serve
10 in the capacity of, a new motor vehicle salesperson in this state
11 without first obtaining a certificate of registration with the
12 Oklahoma Motor Vehicle Commission. The cost of registration for
13 each new salesperson shall be set at Twenty-five Dollars (\$25.00) to
14 be renewed annually. The cost of registration and any
15 administrative fine is to be borne by the employing entity of the
16 new salesperson. The Commission shall promulgate rules and
17 procedures necessary for the implementation and creation of the
18 registry and the issuance of certificates of registration.

19 SECTION 10. AMENDATORY 47 O.S. 2011, Section 565, as
20 last amended by Section 2, Chapter 79, O.S.L. 2019 (47 O.S. Supp.
21 2020, Section 565), is amended to read as follows:

22 Section 565. A. The Oklahoma Motor Vehicle Commission may deny
23 an application for a license, or revoke or suspend a license or
24 impose a fine not to exceed Ten Thousand Dollars (\$10,000.00)

1 against a manufacturer or distributor or a fine not to exceed One
2 Thousand Dollars (\$1,000.00) against a dealer per occurrence that
3 any provision of Sections 561 through 567, 572, 578.1, 579 and 579.1
4 of this title is violated or for any of the following reasons:

5 1. On satisfactory proof of unfitness of the applicant in any
6 application for any license under the provisions of Section 561 et
7 seq. of this title;

8 2. For any material misstatement made by an applicant in any
9 application for any license under the provisions of Section 561 et
10 seq. of this title;

11 3. For any failure to comply with any provision of Section 561
12 et seq. of this title or any rule promulgated by the Commission
13 under authority vested in it by Section 561 et seq. of this title;

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

16 5. Being a new motor vehicle dealer who:

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

22 b. uses any false or misleading advertising in connection
23 with business as a new motor vehicle dealer,
24

- 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 motor 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 motor vehicles or has misrepresented the terms and conditions of a sale, purchase or contract for sale or purchase of a new motor vehicle or any interest therein including an option to purchase such vehicle,
- g. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license, or
- h. completes any sale or transaction of an extended service contract, extended maintenance plan, or similar product using contract forms that do not conspicuously disclose the identity of the service contract provider;

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

7. Being a new motor vehicle dealer who:

- 1 a. does not have an established place of business,
- 2 b. does not provide for a suitable repair shop separate
- 3 from the display room with ample space to repair or
- 4 recondition one or more vehicles at the same time, and
- 5 which is equipped with such parts, tools and equipment
- 6 as may be requisite for the servicing of motor
- 7 vehicles in such a manner as to make them comply with
- 8 the safety laws of this state and to properly fulfill
- 9 the dealer's or manufacturer's warranty obligation,
- 10 c. does not hold a franchise in effect with a
- 11 manufacturer or distributor of new or unused motor
- 12 vehicles for the sale of the same and is not
- 13 authorized by the manufacturer or distributor to
- 14 render predelivery preparation of such vehicles sold
- 15 to purchasers and to perform any authorized post-sale
- 16 work pursuant to the manufacturer's or distributor's
- 17 warranty,
- 18 d. employs a person without obtaining a certificate of
- 19 registration for the person, or utilizes the services
- 20 of used motor vehicle lots or dealers or other
- 21 unlicensed persons in connection with the sale of new
- 22 motor vehicles,
- 23 e. does not properly service a new motor vehicle before
- 24 delivery of same to the original purchaser thereof, or

1 f. fails to order and stock a reasonable number of new
2 motor vehicles necessary to meet customer demand for
3 each of the new motor vehicles included in the new
4 motor vehicle dealer's franchise agreement, unless the
5 new motor vehicles are not readily available from the
6 manufacturer or distributor due to limited production;

7 8. Being a factory that has:

8 a. either induced or attempted to induce by means of
9 coercion or intimidation, any new motor vehicle
10 dealer:

11 (1) to accept delivery of any motor vehicle or
12 vehicles, parts or accessories therefor, or any
13 other commodities including advertising material
14 which shall not have been ordered by the new
15 motor vehicle dealer,

16 (2) to order or accept delivery of any motor vehicle
17 with special features, appliances, accessories or
18 equipment not included in the list price of the
19 motor vehicles as publicly advertised by the
20 manufacturer thereof, or

21 (3) to order or accept delivery of any parts,
22 accessories, equipment, machinery, tools,
23 appliances or any commodity whatsoever, or
24

1 b. induced under threat or discrimination by the
2 withholding from delivery to a motor vehicle dealer
3 certain models of motor vehicles, changing or amending
4 unilaterally the dealer's allotment of motor vehicles
5 and/or withholding and delaying delivery of such
6 vehicles out of the ordinary course of business, in
7 order to induce by such coercion any such dealer to
8 participate or contribute to any local or national
9 advertising fund controlled directly or indirectly by
10 the factory or for any other purposes such as contest,
11 "give-aways" or other so-called sales promotional
12 devices and/or change of quotas in any sales contest;
13 or has required motor vehicle dealers, as a condition
14 to receiving their vehicle allotment, to order a
15 certain percentage of the vehicles with optional
16 equipment not specified by the new motor vehicle
17 dealer; however, nothing in this section shall
18 prohibit a factory from supporting an advertising
19 association which is open to all dealers on the same
20 basis;

21 9. Being a factory that:

22 a. has attempted to coerce or has coerced any new motor
23 vehicle dealer to enter into any agreement or to
24 cancel any agreement, or fails to act in good faith

1 and in a fair, equitable and nondiscriminatory manner;
2 or has directly or indirectly coerced, intimidated,
3 threatened or restrained any motor vehicle dealer; or
4 has acted dishonestly, or has failed to act in
5 accordance with the reasonable standards of fair
6 dealing,

- 7 b. has failed to compensate its dealers for the work and
8 services they are required to perform in connection
9 with the dealer's delivery and preparation obligations
10 according to the agreements on file with the
11 Commission which must be found by the Commission to be
12 reasonable, or fail to adequately and fairly
13 compensate its dealers for labor, parts and other
14 expenses incurred by such dealer to perform under and
15 comply with manufacturer's warranty agreements.
16 Adequate and fair compensation for parts shall be
17 established by the dealer submitting to the
18 manufacturer or distributor one hundred sequential
19 nonwarranty customer-paid service repair orders which
20 contain warranty-like parts, or ninety (90)
21 consecutive days of nonwarranty customer-paid service
22 repair orders which contain warranty-like parts,
23 whichever is less, covering repairs made no more than
24 one hundred eighty (180) days before the submission

1 and declaring the average percentage markup. Adequate
2 and fair compensation for labor shall be established
3 by the dealer submitting to the manufacturer or
4 distributor one hundred sequential customer-paid
5 service repair orders which contain labor charges, or
6 ninety (90) consecutive days of customer-paid service
7 repair orders which contain labor charges, whichever
8 is less. When submitting repair orders to calculate a
9 labor rate, a dealer need not include repair orders
10 for routine maintenance. A manufacturer or
11 distributor may, not later than thirty (30) days after
12 submission, rebut that declared rate in writing by
13 reasonably substantiating that the rate is inaccurate
14 or unreasonable in light of the practices of all other
15 franchised motor vehicle dealers in an economically
16 similar part of the state offering the same line-make
17 vehicles. The retail rate shall go into effect thirty
18 (30) days following the approval by the manufacturer,
19 subject to audit of the submitted repair orders by the
20 franchisor and a rebuttal of the declared rate as
21 described above. If the declared rate is rebutted,
22 the manufacturer or distributor shall propose an
23 adjustment in writing of the average percentage markup
24 based on that rebuttal not later than thirty (30) days

1 after submission. If the dealer does not agree with
2 the proposed average percentage markup, the dealer may
3 file a protest with the Commission not later than
4 thirty (30) days after receipt of that proposal by the
5 manufacturer or distributor. In the event a protest
6 is filed, the manufacturer or distributor shall have
7 the burden of proof to establish the new motor vehicle
8 dealer's submitted rate was inaccurate or unreasonable
9 in light of the practices of all other franchised
10 motor vehicle dealers in an economically similar part
11 of the state. A manufacturer or distributor may not
12 retaliate against any new motor vehicle dealer seeking
13 to exercise its rights under this provision. A
14 manufacturer or distributor may require a dealer to
15 submit repair orders in accordance with this section
16 in order to validate a dealer's retail rate for parts
17 or labor not more often than once every twelve (12)
18 months. All claims made by dealers for compensation
19 for delivery, preparation and warranty work shall be
20 paid within thirty (30) days after approval and shall
21 be approved or disapproved within thirty (30) days
22 after receipt. When any claim is disapproved, the
23 dealer shall be notified in writing of the grounds for
24 disapproval. The dealer's delivery, preparation and

1 warranty obligations as filed with the Commission
2 shall constitute the dealer's sole responsibility for
3 product liability as between the dealer and
4 manufacturer. A factory may reasonably and
5 periodically audit a new motor vehicle dealer to
6 determine the validity of paid claims for dealer
7 compensation or any charge-backs for warranty parts or
8 service compensation. Except in cases of suspected
9 fraud, audits of warranty payments shall only be for
10 the one-year period immediately following the date of
11 the payment. A manufacturer shall reserve the right
12 to reasonable, periodic audits to determine the
13 validity of paid claims for dealer compensation or any
14 charge-backs for consumer or dealer incentives.
15 Except in cases of suspected fraud, audits of
16 incentive payments shall only be for a one-year period
17 immediately following the date of the payment. A
18 factory shall not deny a claim or charge a new motor
19 vehicle dealer back subsequent to the payment of the
20 claim unless the factory can show that the claim was
21 false or fraudulent or that the new motor vehicle
22 dealer failed to reasonably substantiate the claim by
23 the written reasonable procedures of the factory. The
24 factory shall provide written notice to a dealer of a

1 proposed charge-back that is the result of an audit
2 along with the specific audit results and proposed
3 charge-back amount. A dealer that receives notice of
4 a proposed charge-back pursuant to a factory's audit
5 has the right to file a protest with the Commission
6 within thirty (30) days after receipt of the notice of
7 the charge-back or audit results, whichever is later.
8 The factory is prohibited from implementing the
9 charge-back or debiting the dealer's account until
10 either the time frame for filing a protest has passed
11 or a final adjudication is rendered by the Commission,
12 whichever is later, unless the dealer has agreed to
13 the charge-back or charge-backs,

14 c. unreasonably fails or refuses to offer to its same
15 line-make franchised dealers all models manufactured
16 for that line-make, or unreasonably requires a dealer
17 to pay any extra fee, purchase unreasonable
18 advertising displays or other materials, or remodel,
19 renovate, or recondition the dealer's existing
20 facilities as a prerequisite to receiving a model or
21 series of vehicles. The failure to deliver any such
22 new motor vehicle shall not be considered a violation
23 of the section if the failure is not arbitrary or is
24 due to lack of manufacturing capacity or to a strike

1 or labor difficulty, a shortage of materials, a
2 freight embargo or other cause over which the
3 manufacturer has no control. However, this
4 subparagraph shall not apply to recreational vehicles
5 or limited production model vehicles,

- 6 d. except as necessary to comply with a health or safety
7 law, or to comply with a technology requirement which
8 is necessary to sell or service a motor vehicle that
9 the franchised motor vehicle dealer is authorized or
10 licensed by the franchisor to sell or service,
11 requires a new motor vehicle dealer to construct a new
12 facility or substantially renovate the new motor
13 vehicle dealer's existing facility unless the facility
14 construction or renovation is justified by the
15 economic conditions existing at the time, as well as
16 the reasonably foreseeable projections, in the
17 automotive industry. However, this subparagraph shall
18 not apply if the factory provides money, credit,
19 allowance, reimbursement, or additional vehicle
20 allocation to a dealer to compensate the dealer for
21 the cost of, or a portion of the cost of, the facility
22 construction or renovation,
- 23 e. requires a new motor vehicle dealer to establish an
24 exclusive facility, unless supported by reasonable

1 business, market and economic considerations;
2 provided, that this provision shall not restrict the
3 terms of any agreement for such exclusive facility
4 voluntarily entered into and supported by valuable
5 consideration separate from the new motor vehicle
6 dealer's right to sell and service motor vehicles for
7 the franchisor,

- 8 f. requires a new motor vehicle dealer to enter into a
9 site-control agreement covering any or all of the new
10 motor vehicle dealer's facilities or premises;
11 provided, that this provision shall not restrict the
12 terms of any site-control agreement voluntarily
13 entered into and supported by valuable consideration
14 separate from the new motor vehicle dealer's right to
15 sell and service motor vehicles for the franchisor.
16 Notwithstanding the foregoing or the terms of any
17 site-control agreement, a site-control agreement
18 automatically extinguishes if all of the factory's
19 franchises that operated from the location that are
20 the subject of the site-control agreement are
21 terminated by the factory as part of the
22 discontinuance of a product line, or
23 g. requires a new motor vehicle dealer to purchase goods
24 or services for the construction, renovation, or

1 improvement of the dealer's facility from a vendor
2 chosen by the factory if goods or services available
3 from other sources are of substantially similar
4 quality and design and comply with all applicable
5 laws; provided, however, that such goods are not
6 subject to the factory's intellectual property or
7 trademark rights and the new motor vehicle dealer has
8 received the factory's approval, which approval may
9 not be unreasonably withheld. Nothing in this
10 subparagraph may be construed to allow a new motor
11 vehicle dealer to impair or eliminate a factory's
12 intellectual property, trademark rights or trade dress
13 usage guidelines. Nothing in this section prohibits
14 the enforcement of a voluntary agreement between the
15 factory and the new motor vehicle dealer where
16 separate and valuable consideration has been offered
17 and accepted;

18 10. Being a factory that establishes a system of motor vehicle
19 allocation or distribution which is unfair, inequitable or
20 unreasonably discriminatory. Upon the request of any dealer
21 franchised by it, a factory shall disclose in writing to the dealer
22 the basis upon which new motor vehicles are allocated, scheduled and
23 delivered among the dealers of the same line-make for that factory;

1 11. Being a factory that sells directly or indirectly new motor
2 vehicles to any retail consumer in the state except through a new
3 motor vehicle dealer holding a franchise for the line-make that
4 includes the new motor vehicle. This paragraph does not apply to
5 factory sales of new motor vehicles to its employees, family members
6 of employees, retirees and family members of retirees, not-for-
7 profit organizations or the federal, state or local governments.
8 The provisions of this paragraph shall not preclude a factory from
9 providing information to a consumer for the purpose of marketing or
10 facilitating a sale of a new motor vehicle or from establishing a
11 program to sell or offer to sell new motor vehicles through
12 participating dealers;

13 12. a. Being a factory which directly or indirectly:

- 14 (1) owns any ownership interest or has any financial
15 interest in a new motor vehicle dealer or any
16 person who sells products or services to the
17 public,
18 (2) operates or controls a new motor vehicle dealer,
19 or
20 (3) acts in the capacity of a new motor vehicle
21 dealer.

- 22 b. (1) This paragraph does not prohibit a factory from
23 owning or controlling a new motor vehicle dealer
24 while in a bona fide relationship with a dealer

development candidate who has made a substantial initial investment in the franchise and whose initial investment is subject to potential loss. The dealer development candidate can reasonably expect to acquire full ownership of a new motor vehicle dealer within a reasonable period of time not to exceed ten (10) years and on reasonable terms and conditions. The ten-year acquisition period may be expanded for good cause shown.

(2) This paragraph does not prohibit a factory from owning, operating, controlling or acting in the capacity of a motor vehicle dealer for a period not to exceed twelve (12) months during the transition from one dealer to another dealer if the dealership is for sale at a reasonable price and on reasonable terms and conditions to an independent qualified buyer. On showing by a factory of good cause, the Oklahoma Motor Vehicle Commission may extend the time limit set forth above; extensions may be granted for periods not to exceed twelve (12) months.

(3) This paragraph does not prohibit a factory from owning, operating or controlling or acting in the

1 capacity of a motor vehicle dealer which was in
2 operation prior to January 1, 2000.

3 (4) This paragraph does not prohibit a factory from
4 owning, directly or indirectly, a minority
5 interest in an entity that owns, operates or
6 controls motor vehicle dealerships of the same
7 line-make franchised by the manufacturer,
8 provided that each of the following conditions
9 are met:

10 (a) all of the motor vehicle dealerships selling
11 the motor vehicles of that manufacturer in
12 this state trade exclusively in the line-
13 make of that manufacturer,

14 (b) all of the franchise agreements of the
15 manufacturer confer rights on the dealer of
16 the line-make to develop and operate, within
17 a defined geographic territory or area, as
18 many dealership facilities as the dealer and
19 manufacturer shall agree are appropriate,

20 (c) at the time the manufacturer first acquires
21 an ownership interest or assumes operation,
22 the distance between any dealership thus
23 owned or operated and the nearest
24 unaffiliated motor vehicle dealership

1 trading in the same line-make is not less
2 than seventy (70) miles,

3 (d) during any period in which the manufacturer
4 has such an ownership interest, the
5 manufacturer has no more than three
6 franchise agreements with new motor vehicle
7 dealers licensed by the Oklahoma Motor
8 Vehicle Commission to do business within the
9 state, and

10 (e) prior to January 1, 2000, the factory shall
11 have furnished or made available to
12 prospective motor vehicle dealers an
13 offering-circular in accordance with the
14 Trade Regulation Rule on Franchising of the
15 Federal Trade Commission, and any guidelines
16 and exemptions issued thereunder, which
17 disclose the possibility that the factory
18 may from time to time seek to own or
19 acquire, directly or indirectly, ownership
20 interests in retail dealerships;

21 13. Being a factory which directly or indirectly makes
22 available for public disclosure any proprietary information provided
23 to the factory by a new motor vehicle dealer, other than in
24 composite form to dealers in the same line-make or in response to a

1 subpoena or order of the Commission or a court. Proprietary
2 information includes, but is not limited to, information ~~based on:~~

- 3 a. ~~any information~~ derived from monthly financial
4 statements provided to the factory, and
- 5 b. ~~any information~~ regarding any aspect of the
6 profitability of a particular new motor vehicle
7 dealer;

8 14. Being a factory which does not provide or direct leads in a
9 fair, equitable and timely manner. Nothing in this paragraph shall
10 be construed to require a factory to disregard the preference of a
11 consumer in providing or directing a lead;

12 15. Being a factory which used the customer list of a new motor
13 vehicle dealer for the purpose of unfairly competing with dealers;

14 16. Being a factory which prohibits a new motor vehicle dealer
15 from relocating after a written request by such new motor vehicle
16 dealer if:

- 17 a. the facility and the proposed new location satisfies
18 or meets the written reasonable guidelines of the
19 factory. Reasonable guidelines do not include site
20 control unless agreed to as set forth in subparagraphs
21 e and f of paragraph 9 of this subsection,
- 22 b. the proposed new location is within the area of
23 responsibility of the new motor vehicle dealer
24 pursuant to Section 578.1 of this title, and

1 c. the factory has sixty (60) days from receipt of the
2 new motor vehicle dealer's relocation request to
3 approve or deny the request. The failure to approve
4 or deny the request within the sixty-day time frame
5 shall constitute approval of the request;

6 17. Being a factory which prohibits a new motor vehicle dealer
7 from adding additional line-makes to its existing facility, if,
8 after adding the additional line-makes, the facility satisfies the
9 written reasonable capitalization standards and facility guidelines
10 of each factory. Reasonable facility guidelines do not include a
11 requirement to maintain site control unless agreed to by the dealer
12 as set forth in subparagraphs e and f of paragraph 9 of this
13 subsection;

14 18. Being a factory that increases prices of new motor vehicles
15 which the new motor vehicle dealer had ordered for retail consumers
16 and notified the factory prior to the dealer's receipt of the
17 written official price increase notification. A sales contract
18 signed by a retail consumer accompanied with proof of order
19 submission to the factory shall constitute evidence of each such
20 order, provided that the vehicle is in fact delivered to the
21 customer. Price differences applicable to new models or series
22 motor vehicles at the time of the introduction of new models or
23 series shall not be considered a price increase for purposes of this
24

1 paragraph. Price changes caused by any of the following shall not
2 be subject to the provisions of this paragraph:

- 3 a. the addition to a motor vehicle of required or
4 optional equipment pursuant to state or federal law,
- 5 b. revaluation of the United States dollar in the case of
6 foreign-made vehicles or components, or
- 7 c. an increase in transportation charges due to increased
8 rates imposed by common or contract carriers;

9 19. Being a factory that requires a new motor vehicle dealer to
10 participate monetarily in an advertising campaign or contest, or
11 purchase any promotional materials, showroom or other display
12 decoration or materials at the expense of the new motor vehicle
13 dealer without consent of the dealer, which consent shall not be
14 unreasonably withheld;

15 20. Being a factory that denies any new motor vehicle dealer
16 the right of free association with any other new motor vehicle
17 dealer for any lawful purpose, unless otherwise permitted by this
18 chapter; or

19 21. Being a factory that requires a new motor vehicle dealer to
20 sell, offer to sell or sell exclusively an extended service
21 contract, extended maintenance plan or similar product, such as gap
22 products offered, endorsed or sponsored by the factory by the
23 following means:

- a. by an act or statement from the factory that will in any manner adversely impact the dealer,
- b. by measuring the dealer's performance under the franchise based on the sale of extended service contracts, extended maintenance plans or similar products offered, endorsed or sponsored by the manufacturer or distributor.

B. Notwithstanding the terms of any franchise agreement, in the event of a proposed sale or transfer of a dealership, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the assets or ownership interest of the dealer of the new vehicle dealership, if such sale or transfer is conditioned upon the manufacturer or dealer entering into a dealer agreement with the proposed new owner or transferee, only if all the following requirements are met:

1. To exercise its right of first refusal, the factory must notify the dealer in writing within sixty (60) days of receipt of the completed proposal for the proposed sale transfer;

2. The exercise of the right of first refusal will result in the dealer and the owner of the dealership receiving the same or greater consideration as they have contracted to receive in connection with the proposed change of ownership or transfer;

3. The proposed sale or transfer of the assets of the dealership does not involve the transfer or sale to a member or

1 members of the family of one or more dealer owners, or to a
2 qualified manager or a partnership or corporation controlled by such
3 persons; and

4 4. The factory agrees to pay the reasonable expenses, including
5 attorney fees which do not exceed the usual, customary and
6 reasonable fees charged for similar work done for other clients
7 incurred by the proposed new owner and transferee prior to the
8 exercise by the factory of its right of first refusal in negotiating
9 and implementing the contract for the proposed sale or transfer of
10 the dealership or dealership assets. Notwithstanding the foregoing,
11 no payment of expenses and attorney fees shall be required if the
12 proposed new dealer or transferee has not submitted or caused to be
13 submitted an accounting of those expenses within thirty (30) days of
14 receipt of the written request of the factory for such an
15 accounting. The accounting may be requested by a factory before
16 exercising its right of first refusal.

17 C. Nothing in this section shall prohibit, limit, restrict or
18 impose conditions on:

19 1. Business activities, including without limitation the
20 dealings with motor vehicle manufacturers and the representatives
21 and affiliates of motor vehicle manufacturers, of any person that is
22 primarily engaged in the business of short-term, not to exceed
23 twelve (12) months, rental of motor vehicles and industrial and
24

1 construction equipment and activities incidental to that business,
2 provided that:

- 3 a. any motor vehicle sold by that person is limited to
4 used motor vehicles that have been previously used
5 exclusively and regularly by that person in the
6 conduct of business and used motor vehicles traded in
7 on motor vehicles sold by that person,
- 8 b. warranty repairs performed by that person on motor
9 vehicles are limited to those motor vehicles that it
10 owns, previously owned or takes in trade, and
- 11 c. motor vehicle financing provided by that person to
12 retail consumers for motor vehicles is limited to used
13 vehicles sold by that person in the conduct of
14 business; or

15 2. The direct or indirect ownership, affiliation or control of
16 a person described in paragraph 1 of this subsection.

17 SECTION 11. AMENDATORY 47 O.S. 2011, Section 583, as
18 last amended by Section 24, Chapter 161, O.S.L. 2020 (47 O.S. Supp.
19 2020, Section 583), is amended to read as follows:

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

1 manufactured home manufacturer selling directly to a licensed
2 manufactured home dealer in this state without first obtaining a
3 license or following other requirements therefor as provided in this
4 section.

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

14 b. If after a hearing in accordance with the provisions
15 of Section 585 of this title, the Oklahoma Used Motor
16 Vehicle and Parts Commission shall find any person
17 installing a mobile or manufactured home to be in
18 violation of any of the provisions of this act, such
19 person may be subject to an administrative fine of not
20 more than Five Hundred Dollars (\$500.00) for each
21 violation. Each day a person is in violation of this
22 act may constitute a separate violation. All
23 administrative fines collected pursuant to the
24 provisions of this subparagraph shall be deposited in

1 the fund established in Section 582 of this title.

2 Administrative fines imposed pursuant to this

3 subparagraph may be enforceable in the district courts

4 of this state.

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

13 B. 1. Applications for licenses required to be obtained under
14 the provisions of the Oklahoma Used Motor Vehicle and Parts
15 Commission shall be verified by the oath or affirmation of the
16 applicant and shall be on forms prescribed by the Commission and
17 furnished to the applicants, and shall contain such information as
18 the Commission deems necessary to enable it to fully determine the
19 qualifications and eligibility of the several applicants to receive
20 the license or licenses applied for. The Commission shall require
21 in the application, or otherwise, information relating to:

22 a. the applicant's financial standing,

23 b. the applicant's business integrity,

- 1 c. whether the applicant has an established place of
2 business and is engaged in the pursuit, avocation, or
3 business for which a license, or licenses, is applied
4 for,
5 d. whether the applicant is able to properly conduct the
6 business for which a license, or licenses, is applied
7 for, and
8 e. such other pertinent information consistent with the
9 safeguarding of the public interest and the public
10 welfare.

11 2. All applications for license or licenses shall be
12 accompanied by the appropriate fee or fees in accordance with the
13 schedule hereinafter provided. In the event any application is
14 denied and the license applied for is not issued, the entire license
15 fee shall be returned to the applicant.

16 3. All bonds and licenses issued under the provisions of this
17 act shall expire on December 31, following the date of issue and
18 shall be nontransferable. All applications for renewal of licenses
19 shall be submitted by November 1 of each year of expiration, and
20 licenses for completed renewals received by November 1 shall be
21 issued by January 10. If applications have not been made for
22 renewal of licenses, such licenses shall expire on December 31 and
23 it shall be illegal for any person to represent himself or herself
24 and act as a dealer thereafter. Tag agents shall be notified not to

1 accept dealers' titles until such time as licenses have been issued.
2 Beginning January 1, 2016, all licenses shall be issued for a period
3 of two (2) years and the appropriate fees shall be assessed. The
4 Commission shall adopt rules necessary to implement the two-year
5 licensing provisions.

6 4. A certificate of registration shall permit the registered
7 person to engage in the activities of a used motor vehicle
8 salesperson. A salesperson shall be deemed to be temporarily
9 approved and allowed to sell vehicles when applications and fees are
10 on file with the Commission.

11 C. The schedule of license and inspection fees to be charged
12 and received by the Commission for the licenses and inspections
13 issued hereunder shall be as follows:

14 1. For each used motor vehicle dealer's license and each
15 wholesale used motor vehicle dealer's license, Six Hundred Dollars
16 (\$600.00). If a used motor vehicle dealer or a wholesale used motor
17 vehicle dealer has once been licensed by the Commission in the
18 classification for which he or she applies for a renewal of the
19 license, the fee for each subsequent renewal shall be Three Hundred
20 Dollars (\$300.00); provided, if an applicant holds a license to
21 conduct business as an automotive dismantler and parts recycler
22 issued pursuant to Section 591.1 et seq. of this title, the initial
23 fee shall be Two Hundred Dollars (\$200.00) and the renewal fee shall
24 be Two Hundred Dollars (\$200.00). If an applicant is applying

1 simultaneously for a license under this paragraph and a license
2 under paragraph 1 of Section 591.5 of this title, the initial
3 application fee shall be Four Hundred Dollars (\$400.00). For the
4 reinstatement of a used motor vehicle dealer's license after
5 revocation for cancellation or expiration of insurance pursuant to
6 subsection F of this section, the fee shall be Two Hundred Dollars
7 (\$200.00);

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

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

16 4. a. For each manufactured home dealer's license or a
17 restricted manufactured home park dealer's license,
18 Six Hundred Dollars (\$600.00), and for each place of
19 business in addition to the principal place of
20 business, Four Hundred Dollars (\$400.00), and

21 b. For each renewal of a manufactured home dealer's
22 license or a restricted manufactured home park
23 dealer's license, and renewal for each place of
24

business in addition to the principal place of
business, Three Hundred Dollars (\$300.00);

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

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

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

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

7. Any manufactured home manufacturer who sells a new
manufactured home to be shipped to or sited in the State of Oklahoma
shall pay an installation inspection fee of Seventy-five Dollars
(\$75.00) for each new single-wide manufactured home and One Hundred
Twenty-five Dollars (\$125.00) for each new multi-floor manufactured
home; and

8. A used manufactured home inspection fee of Seventy-five
Dollars (\$75.00) shall be paid by the installer at or before the
time of installation of any used manufactured home sited and
installed in the State of Oklahoma.

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

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

20 3. Every manufactured home installer shall have the license
21 available for inspection at the primary place of business of the
22 licensee. This license shall be valid for the licensee and all of
23 the employees of the licensee. Any person who is not an employee of
24 the licensee must obtain a separate manufactured home installer

1 license regardless of whether such person is acting in the capacity
2 of a contractor or subcontractor.

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

18 b. Each new applicant for a used motor vehicle dealer
19 license for the purpose of conducting a used motor
20 vehicle business which will consist primarily of non-
21 auction consignment sales which are projected to equal
22 Five Hundred Thousand Dollars (\$500,000.00) or more in
23 gross annual sales shall procure and file with the
24 Commission a good and sufficient bond in the amount of

1 Fifty Thousand Dollars (\$50,000.00). The Commission
2 shall prescribe by rule the method of operation of the
3 non-auction consignment dealer in order to properly
4 protect the interests of all parties to the
5 transaction and to provide sanctions against dealers
6 who fail to comply with the rules.

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

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

19 e. Each applicant for a manufactured home dealer's
20 license or a restricted manufactured home park
21 dealer's license shall procure and file with the
22 Commission a good and sufficient bond in the amount of
23 Thirty Thousand Dollars (\$30,000.00).
24

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

15 g. The bond shall be approved as to form by the Attorney
16 General and conditioned that the applicant shall not
17 practice fraud, make any fraudulent representation, or
18 violate any of the provisions of this act in the
19 conduct of the business for which the applicant is
20 licensed. One of the purposes of the bond is to
21 provide reimbursement for any loss or damage suffered
22 by any person by reason of issuance of a certificate
23 of title by a used motor vehicle dealer, a wholesale
24

1 used motor vehicle dealer, a restricted manufactured
2 home park dealer or a manufactured home dealer.

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

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

14 G. Any manufactured home dealer or restricted manufactured home
15 park dealer is required to furnish and keep in force a minimum of
16 One Hundred Thousand Dollars (\$100,000.00) of garage liability or
17 general liability with products and completed operations insurance
18 coverage.

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

1 SECTION 12. AMENDATORY Section 8, Chapter 79, O.S.L.
2 2019 (47 O.S. Supp. 2020, Section 583.1), is amended to read as
3 follows:

4 Section 583.1 A. It shall be punishable by an administrative
5 fine not to exceed Five Hundred Dollars (\$500.00) for any person,
6 firm, association, corporation or trust to engage in business as, or
7 serve in the capacity of, a used motor vehicle salesperson in this
8 state without first obtaining a certificate of registration with the
9 Oklahoma Used Motor Vehicle and Parts Commission. However, a person
10 may sell used motor vehicles without obtaining a separate used motor
11 vehicle salesperson's certificate of registration if the person has
12 a certificate of registration from the Oklahoma Motor Vehicle
13 Commission to sell new or unused motor vehicles at a new motor
14 vehicle dealer's licensed franchise location which also sells used
15 vehicles; provided, such a person shall only be authorized to sell
16 used motor vehicles for the dealer at the new motor vehicle dealer's
17 licensed franchise location and to represent the new motor vehicle
18 dealer at used motor vehicle auctions. The cost of the registration
19 for each salesperson shall be Fifty Dollars (\$50.00) to be renewed
20 biennially and, for a transfer, Twenty-five Dollars (\$25.00). ~~The~~
21 ~~cost of registration for each new salesperson shall be set at~~
22 ~~Twenty-five Dollars (\$25.00) to be renewed annually.~~ The cost of
23 registration is to be borne by the employing entity of the ~~new~~
24 salesperson. The Oklahoma Used Motor Vehicle and Parts Commission

1 shall promulgate rules and procedures necessary for the
2 implementation and creation of ~~the~~ a registry of salespersons and
3 the issuance of certificates of registration.

4 B. It shall be punishable by an administrative fine not to
5 exceed Five Hundred Dollars (\$500.00) for any person, firm,
6 association, corporation or trust to engage in business as, or serve
7 in the capacity of, a manufactured home salesperson in this state
8 without first obtaining a certificate of registration with the
9 Oklahoma Used Motor Vehicle and Parts Commission. ~~The cost of~~
10 ~~registration for each new salesperson shall be set at Twenty-five~~
11 ~~Dollars (\$25.00) to be renewed annually.~~ The cost of the
12 registration for each salesperson shall be Fifty Dollars (\$50.00) to
13 be renewed biennially and, for a transfer, Twenty-five Dollars
14 (\$25.00). The cost of registration is to be borne by the employing
15 entity of the ~~new~~ salesperson. The Commission shall promulgate
16 rules and procedures necessary for the implementation and creation
17 of ~~the~~ a registry of salespersons and the issuance of certificates
18 of registration.

19 SECTION 13. AMENDATORY 47 O.S. 2011, Section 584, as
20 last amended by Section 6, Chapter 79, O.S.L. 2019 (47 O.S. Supp.
21 2020, Section 584), is amended to read as follows:

22 Section 584. A. The Oklahoma Used Motor Vehicle and Parts
23 Commission may deny an application for a license, impose a fine not
24 to exceed One Thousand Dollars (\$1,000.00) per occurrence and/or

1 revoke or suspend a license after it has been granted, when any
2 provision of Sections 581 through 588 of this title is violated or
3 for any of the following reasons:

4 1. On satisfactory proof of unfitness of the applicant or the
5 licensee, as the case may be, under the standards established by
6 Sections 581 through 588 of this title;

7 2. For fraud practices or any material misstatement made by an
8 applicant in any application for license under the provisions of
9 Sections 581 through 588 of this title;

10 3. For any willful failure to comply with any provision of
11 Section 581 et seq. of this title or with any rule promulgated by
12 the Commission under authority vested in it by Sections 581 through
13 588 of this title;

14 4. Change of condition after license is granted resulting in
15 failure to maintain the qualifications for license;

16 5. Continued or flagrant violation of any of the rules of the
17 Commission;

18 6. Being a used motor vehicle dealer, a used motor vehicle
19 salesperson, a wholesale used motor vehicle dealer, or a
20 manufactured home dealer, a restricted manufactured home park
21 dealer, a manufactured home installer, a manufactured home
22 salesperson or a manufactured home manufacturer who:

23 a. resorts to or uses any false or misleading advertising
24 in connection with business as a used motor vehicle

- dealer, wholesale used motor vehicle dealer or a
restricted manufactured home park dealer or
manufactured home dealer, installer or manufacturer,
- b. has committed any unlawful act which resulted in the
revocation of any similar license in another state,
 - c. has been convicted of a crime involving moral
turpitude,
 - d. has committed a fraudulent act in selling, purchasing
or otherwise dealing in motor vehicles or manufactured
homes or has misrepresented the terms and conditions
of a sale, purchase or contract for sale or purchase
of a motor vehicle or manufactured home or any
interest therein including an option to purchase such
motor vehicles or manufactured homes,
 - e. has engaged in business under a past or present
license issued pursuant to Sections 581 through 588 of
this title, in such a manner as to cause injury to the
public or to those with whom the licensee is dealing,
 - f. has failed to meet or maintain the conditions and
requirements necessary to qualify for the issuance of
a license,
 - g. has failed or refused to furnish and keep in force any
bond required under Sections 581 through 588 of this
title,

- 1 h. has installed or attempted to install a manufactured
2 home in an unworkmanlike manner, or
3 i. employs ~~unlicensed persons~~ a person in connection with
4 the sale of manufactured homes without first obtaining
5 a certificate of registration for the person;

6 7. Being a used motor vehicle dealer who:

- 7 a. does not have an established place of business,
8 b. employs ~~unlicensed persons~~ a person in connection with
9 the sale of used vehicles without first obtaining a
10 certificate of registration for the person,
11 c. fails or refuses to furnish or keep in force single
12 limit liability insurance on any vehicle offered for
13 sale and otherwise required under the financial
14 responsibility laws of this state, or
15 d. is not operating from the address shown on the license
16 if this change has not been reported to the
17 Commission; or

18 8. Being a manufactured home dealer or a restricted
19 manufactured home park dealer who:

- 20 a. does not have an established place of business,
21 b. fails or refuses to furnish or keep in force garage
22 liability and completed operations insurance, or
23
24

1 c. is not operating from the address shown on the license
2 if this change has not been reported to the
3 Commission.

4 B. 1. The Commission shall deny an application for a license,
5 or revoke or suspend a license after it has been granted, if a
6 manufactured home dealer does not meet the following guidelines and
7 restrictions:

8 a. a display area for manufactured homes which is easily
9 accessible, with sufficient parking for the public,

10 b. an office for conducting business where the books,
11 records, and files are kept, with access to a restroom
12 for the public,

13 c. a place of business which meets all zoning, occupancy
14 and other requirements of the appropriate local
15 government and regular occupancy by a person, firm, or
16 corporation engaged in the business of selling
17 manufactured homes, and

18 d. a place of business which is separate and apart from
19 any other dealer's location.

20 2. The Commission shall deny an application for a restricted
21 manufactured home park dealer license, or revoke or suspend a
22 license after it has been granted, if a manufactured home park
23 dealer does not satisfy the following guidelines and restrictions:

- a. only mobile or manufactured homes that are "ready for occupancy" are sold or offered for sale,
- b. maintains an office for conducting business where the books, records, and files are kept, with access to a restroom for the public,
- c. maintains a place of business which meets all zoning, occupancy and other requirements of the appropriate local government and regular occupancy by a person, firm or corporation engaged in the business of selling manufactured homes inside a park, and
- d. maintains a place of business which is separate and apart from any other dealer's location.

C. The Commission shall deny an application for a license, or revoke or suspend a license after it has been granted, if a manufactured home installer:

1. Installs or attempts to install a manufactured home in a manner that is not in compliance with installation standards as set by the Commission pursuant to rule; or

2. Violates or fails to comply with any applicable rule as promulgated by the Commission concerning manufactured home installers.

D. The Commission shall deny an application for a license, or revoke or suspend a license after it has been granted, if a manufactured home manufacturer violates or fails to comply with any

1 applicable rule as promulgated by the Commission concerning
2 manufactured home manufacturers.

3 E. The Commission shall deny an application for a license by a
4 motor vehicle manufacturer or factory if the application is for the
5 purpose of selling used motor vehicles to any retail consumer in the
6 state, other than through its retail franchised dealers, or acting
7 as a broker between a seller and a retail buyer. This subsection
8 does not prohibit a manufacturer from selling used motor vehicles
9 where the retail customer is a nonprofit organization or a federal,
10 state, or local government or agency. This subsection does not
11 prohibit a manufacturer from providing information to a consumer for
12 the purpose of marketing or facilitating the sale of used motor
13 vehicles or from establishing a program to sell or offer to sell
14 used motor vehicles through the manufacturer's retail franchised
15 dealers as provided for in Sections 561 through 580.2 of this title.
16 This subsection shall not prevent a factory from obtaining a
17 wholesale used motor vehicle dealer's license or the factory's
18 financing subsidiary from obtaining a wholesale used motor vehicle
19 dealer's license.

20 F. If the Commission denies issuance of a license the
21 Commission shall provide the grounds for the action to the applicant
22 in writing and allow the applicant sixty (60) days to resolve any
23 issues that are the grounds for the action.

1 G. Each of the aforementioned grounds for suspension,
2 revocation, or denial of issuance or renewal of license shall also
3 constitute a violation of Sections 581 through 588 of this title,
4 unless the person involved has been tried and acquitted of the
5 offense constituting such grounds.

6 The suspension, revocation or refusal to issue or renew a
7 license or the imposition of any other penalty by the Commission
8 shall be in addition to any penalty which might be imposed upon any
9 licensee upon a conviction at law for any violation of Sections 581
10 through 588 of this title.

11 SECTION 14. AMENDATORY 47 O.S. 2011, Section 596.2, is
12 amended to read as follows:

13 Section 596.2 A. It shall be unlawful for any person, firm,
14 association, corporation or trust to engage in business as, or serve
15 in the capacity of, or act as a new recreational vehicle dealer, or
16 new recreational vehicle salesperson in this state without first
17 obtaining a license or salesperson registration as provided for by
18 law.

19 B. The schedule of license fees and salesperson registration
20 fees to be charged and received by the ~~OMVC~~ Oklahoma Motor Vehicle
21 Commission for the licenses issued hereunder shall be as follows:

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

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

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

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

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

16 C. A manufacturer shall not sell or display for sale a
17 recreational vehicle in this state except to a dealer or through a
18 dealer that is licensed by the ~~OMVC~~ Commission to sell recreational
19 vehicles in the State of Oklahoma. The manufacturer shall also be
20 required to have a dealer agreement with the dealer that meets the
21 requirements of ~~this act~~ the Recreational Vehicle Franchise Act and
22 is signed by both parties.

23 D. A dealer shall not sell or display for sale a new
24 recreational vehicle in this state unless the dealer is licensed by

1 the ~~OMVC~~ Commission to sell recreational vehicles in the State of
2 Oklahoma. The dealer shall also be required to have a dealer
3 agreement with the manufacturer of the recreational vehicle that
4 meets the requirements of this act and is signed by both parties.

5 SECTION 15. AMENDATORY 47 O.S. 2011, Section 596.14, is
6 amended to read as follows:

7 Section 596.14. The Oklahoma Motor Vehicle Commission may deny
8 an application for a license, revoke or suspend a license, impose a
9 fine against a manufacturer or distributor in an amount not to
10 exceed Ten Thousand Dollars (\$10,000.00) per occurrence, or impose a
11 fine against a dealer in an amount not to exceed One Thousand
12 Dollars (\$1,000.00) per occurrence if any provision of the
13 Recreational Vehicle Franchise Act ~~of Title 47 of the Oklahoma~~
14 ~~Statutes~~ is violated or for any of the following reasons:

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

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

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

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

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

- 5 a. has required a purchaser of a new recreational
6 vehicle, as a condition of sale and delivery thereof,
7 to also purchase special features, appliances,
8 accessories or equipment not desired or requested by
9 the purchaser and installed by the dealer,
- 10 b. uses any false or misleading advertising in connection
11 with business as a new recreational vehicle dealer or
12 vehicle salesperson,
- 13 c. has committed any unlawful act which resulted in the
14 revocation of any similar license in another state,
- 15 d. has failed or refused to perform any written agreement
16 with any retail buyer involving the sale of a
17 recreational vehicle,
- 18 e. has been convicted of a crime involving moral
19 turpitude,
- 20 f. has committed a fraudulent act in selling, purchasing
21 or otherwise dealing in new recreational vehicles or
22 has misrepresented the terms and conditions of a sale,
23 purchase or contract for sale or purchase of a new
24

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

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

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

8 7. Being a new recreational vehicle dealer who:

9 a. does not have an established place of business,

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

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

1 pursuant to the warranty of the manufacturer or
2 distributor,

- 3 d. employs ~~unlicensed~~ unregistered salespersons or
4 employs or utilizes the services of used recreational
5 vehicle lots, dealers or other ~~unlicensed~~ unregistered
6 persons in connection with the sale of new
7 recreational vehicles; or

8 8. Being a factory that has:

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

- 11 (1) to accept delivery of any recreational vehicle or
12 vehicles, parts or accessories for recreational
13 vehicles, or any other commodities including
14 advertising material which shall not have been
15 ordered by the new recreational vehicle dealer,
16 (2) to order or accept delivery of any recreational
17 vehicle with special features, appliances,
18 accessories or equipment not included in the list
19 price of the recreational vehicles as publicly
20 advertised by the manufacturer of the
21 recreational vehicle, or
22 (3) to order or accept delivery of any parts,
23 accessories, equipment, machinery, tools,
24 appliances or any commodity whatsoever,

- 1 b. induced under threat or discrimination by the
2 withholding from delivery to a recreational vehicle
3 dealer certain models of recreational vehicles,
4 changing or amending unilaterally the allotment of
5 recreational vehicles of a dealer or withholding and
6 delaying delivery of such vehicles out of the ordinary
7 course of business, in order to induce a dealer by
8 such coercion to participate or contribute to any
9 local or national advertising fund controlled directly
10 or indirectly by the factory or for any other purposes
11 including contests, giveaways, other sales promotional
12 devices, or change of quotas in any sales contest, or
13 c. required recreational vehicle dealers, as a condition
14 of receiving the vehicle allotment of the dealer, to
15 order a certain percentage of the recreational
16 vehicles with optional equipment not specified by the
17 new recreational vehicle dealer; however, nothing in
18 this paragraph shall prohibit a factory from
19 supporting an advertising association which is open to
20 all dealers on the same basis.

21 The Commission may deny any application for license or
22 registration, or suspend or revoke a license or registration issued,
23 or impose a fine, only after a hearing for which the applicant or
24 licensee or registered salesperson affected shall be given at least

1 ten (10) days' written notice specifying the reason for denying the
2 applicant a license or registration, or, in the case of a revocation
3 or suspension or imposition of a fine, the offense which the
4 licensee or registered salesperson is alleged to have committed.
5 The notice may be served as provided by law for the service of
6 notices, or mailing a copy by registered mail to the last-known
7 residence or business address of the applicant, registered
8 salesperson or licensee. The hearing on alleged violations shall be
9 at such time and place as the Commission may prescribe and the
10 aforementioned notice shall further specify the time and place. If
11 the applicant, registered salesperson or licensee is a motor vehicle
12 salesperson, factory representative or distributor representative,
13 the Commission shall in like manner additionally notify the person,
14 firm, association, corporation or trust with whom he or she is
15 associated, or in whose association he or she is about to enter.
16 The Commission shall have the power to compel the production of all
17 records, papers and other documents which may be deemed relevant to
18 the proceeding bearing upon the complaints. The Commission shall
19 have the power to subpoena and bring before it any person, or take
20 testimony of any person by deposition, with the same fees and
21 mileage and in the same manner as prescribed in the proceedings
22 before courts of the state in civil cases. Any party to the hearing
23 shall have the right to the attendance of witnesses ~~in~~ on his or her

1 behalf upon designating to the Commission the person or persons
2 sought to be subpoenaed.

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SECTION 16. This act shall become effective November 1, 2021.

Passed the House of Representatives the 10th day of March, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2021.

Presiding Officer of the Senate