

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3994 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Mike Dobrinski

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

FLOOR SUBSTITUTE
FOR

HOUSE BILL NO. 3994

By: Dobrinski

FLOOR SUBSTITUTE

An Act relating to motor vehicles; creating the Hometown Auto-jobs Act of 2022; providing for application for certain license; providing requirements and limitations of licensee; requiring certain license for delivery; providing for misdemeanor and fine for offense; making exception for certain fleet vehicle sales; setting certain guidelines for certain entities regarding consumer data; providing certain indemnification; authorizing certain data disclosure; requiring certain party bear burden of proof; confining certain judgments to operations of this act directly involved in the controversy in which judgment is rendered; amending 47 O.S. 2021, Section 562, which relates to definitions; modifying definitions; defining terms; amending 47 O.S. 2021, Section 564, which relates to licenses; disallowing certain authorization; making certain exception; authorizing certain fee; making certain exemption for certain manufacturers; limiting manufacturers to certain activities; requiring Commission to promulgate certain rules; designating certain manufacturers to be new motor vehicle dealers; amending 47 O.S. 2021, Section 565, which relates to denial, revocation or suspension of license; modifying entity subject to license denial, revocation, suspension or fine; modifying reasons for license denial, revocation, suspension or punishment by fine; prohibiting certain standards to measure performance; requiring certain vehicles be offered at same price; requiring certain reimbursement for rental cars; limiting dealers to one part or labor rate request per year; providing for certain calculation; providing for exclusions for certain

1 rate calculation; modifying reasons for certain
2 rebuttal; requiring certain written notice; deleting
3 certain requirement to submit repair orders;
4 prohibiting certain recovery of costs; prohibiting
5 factory denial of certain claims and implementation
6 of certain charge-backs; providing for certain
7 compensation calculation; requiring certain method
8 for used vehicle calculations; allowing factory to
9 direct dealer in certain manner and method; requiring
10 certain reimbursement claims be subject to certain
11 limitations and requirements; placing certain limit
12 on total compensation; disallowing certain remedy
13 combinations; disallowing the use of certain
14 agreements; making certain exception; providing for
15 certain violation; allowing for certain construction
16 or renovation; providing certain rebuttable
17 presumption; prohibiting factories from changing
18 certain plans or systems; limiting license for
19 distribution; amending 47 O.S. 2021, Section 565.1,
20 which relates to succession dealerships; defining
21 term; clarifying language; requiring certain
22 adherence; amending 47 O.S. 2021, Section 565.2,
23 which relates to termination, cancellation or
24 nonrenewal of franchise; requiring certain
compensation; amending 47 O.S. 2021, Section 565.3,
which relates to notice of proposed sale; limiting
evaluations; deleting certain protest right; amending
47 O.S. 2021, Section 572, which relates to venue in
damage actions; modifying certain legal remedies;
amending 47 O.S. 2021, Section 578.1, which relates
to procedures for relocation or establishment;
modifying definition; amending 47 O.S. 2021, Section
580.2, which relates to insurance coverage on loan
vehicles; defining term; making certain liability
policy coverage distinction; providing for
noncodification; providing for codification; and
providing an effective date.

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

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

1 This act shall be known and may be cited as the "Hometown Auto-
2 jobs Act of 2022".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 564.3 of Title 47, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A person who is licensed in his or her state of domicile as
7 a franchised new motor vehicle dealer, and who is not affiliated by
8 ownership or control of a manufacturer, distributor, factory branch,
9 factory representative, distributor branch or distributor
10 representative, as defined in Section 562 Title 47 of the Oklahoma
11 Statutes, may apply to the Oklahoma Motor Vehicle Commission for a
12 motor vehicle direct shipper license. Only a person holding a motor
13 vehicle direct shipper license may ship a new motor vehicle from out
14 of the state to a person, association or entity that is an Oklahoma
15 resident. A new motor vehicle dealer licensed in this state shall
16 not be required to obtain a motor vehicle direct shipper license to
17 ship a new motor vehicle to a person, association or entity that is
18 an Oklahoma resident. Any person who ships less than twelve new
19 motor vehicles per year from out of the state to a person,
20 association or entity that is an Oklahoma resident shall not be
21 required to obtain a motor vehicle direct shipper license. The
22 license fee for a motor vehicle direct shipper shall be determined
23 by the Commission. The amount of the fee must approximate and
24 reasonably reflect the costs necessary to defray the expenses of the

1 Commissioner's service and activities in connection with this
2 section.

3 B. It shall be unlawful for common or permit carriers,
4 operators of trucks, buses or other conveyances, or out-of-state
5 manufacturers or suppliers to make delivery of any new motor vehicle
6 from outside the State of Oklahoma to any person, association or
7 entity within the state unless the delivery is made by, or on behalf
8 of, a person licensed in this state as a new motor vehicle dealer or
9 a motor vehicle direct shipper or delivery is made outside of the
10 State of Oklahoma.

11 C. A person who sells and ships a new motor vehicle directly
12 from any person, association or corporation to a resident of the
13 State of Oklahoma without holding a valid motor vehicle direct
14 shipper's license, upon conviction, shall be guilty of a misdemeanor
15 and subject to a fine pursuant to Section 565 of Title 47 of the
16 Oklahoma Statutes.

17 D. This section shall not apply to the sale of a fleet vehicle
18 to consumers that title and register the vehicle in this state or
19 another state.

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 564.4 of Title 47, unless there
22 is created a duplication in numbering, reads as follows:

23 With respect to consumer data, a factory or third party acting
24 on behalf of a factory:

1 1. Shall comply with and shall not cause a new motor vehicle
2 dealer to violate any applicable restrictions on reuse or disclosure
3 of consumer data established by federal or state law;

4 2. Shall, upon the written request of the new motor vehicle
5 dealer, provide a written statement describing the established
6 procedures adopted by such factory or third party acting on behalf
7 of the factory which meet or exceed any federal or state
8 requirements to safeguard consumer data including, but not limited
9 to, those established in the Gramm-Leach-Bliley Act, 15 U.S.C.,
10 Section 6801 et seq.;

11 3. Shall, upon the written request of the new motor vehicle
12 dealer, provide a written list of the consumer data obtained from
13 the new motor vehicle dealer and all persons to whom any consumer
14 data has been provided by the factory or a third party acting on
15 behalf of a factory during the preceding six (6) months. The new
16 motor vehicle dealer may make such a request no more than once every
17 six (6) months. The list must indicate the specific fields of
18 consumer data which were provided to each person.
19 Notwithstanding the foregoing, such a list shall not be required to
20 include:

- 21 a. a person to whom consumer data was provided, or the
22 specific consumer data provided to such person, if the
23 person was, at the time such consumer data was
24 provided, a service provider, subcontractor, or

1 consultant acting in the course of performance of
2 services on behalf of or for the benefit of the
3 factory, third party, or new motor vehicle dealer,
4 provided that:

5 (1) the factory, third party, or new motor vehicle
6 dealer has entered into an agreement with such
7 person requiring that such person comply with the
8 safeguard requirements of applicable state and
9 federal law, including, but not limited to, those
10 established in the Gramm-Leach-Bliley Act, 15
11 U.S.C., Section 6801 et seq., and

12 (2) the consumer data is used by the factory for
13 internal purposes only and is not distributed to
14 third parties for use or sale other than acting
15 in the course of performance of services on
16 behalf of or for the benefit of the factory,

- 17 b. a person to whom consumer data was provided, or the
18 specific consumer data provided to such person, if the
19 new motor vehicle dealer has previously consented in
20 writing to such person receiving such consumer data
21 and the new motor vehicle dealer has not withdrawn
22 such consent in writing, or
- 23 c. data collected or received for purposes enumerated in
24 paragraph 5 of this section;

1 4. May not require that a new motor vehicle dealer grant the
2 factory or a third party acting on behalf of a factory, or use any
3 incentive that is not paid to all new motor vehicle dealers or
4 withhold any benefit from a new motor vehicle dealer to obtain,
5 direct or indirect access to such new motor vehicle dealer's data
6 management system to obtain consumer data. A factory or a third
7 party acting on behalf of a factory shall permit a new motor vehicle
8 dealer to furnish consumer data in a widely accepted file format,
9 such as comma delimited, and through a third-party vendor selected
10 by the new motor vehicle dealer. However, a factory or a third
11 party acting on behalf of a factory may access or obtain consumer
12 data directly from a new motor vehicle dealer's data management
13 system with the express written consent of the new motor vehicle
14 dealer. The consent shall be in the form of a written document that
15 is separate from the franchise agreement and is executed by the
16 dealer principal or operator and may be withdrawn by the new motor
17 vehicle dealer upon thirty (30) days' written notice to the factory
18 or third party acting on the factory's behalf, as applicable. For
19 incentive programs beginning on or after November 1, 2022, such
20 consent shall not be required as a condition to a new motor vehicle
21 dealer's participation in an incentive program unless such consent
22 is necessary to obtain consumer data to implement the program;

23 5. Shall indemnify the new motor vehicle dealer for any third-
24 party claims asserted against or damages incurred by the new motor

1 vehicle dealer to the extent caused by access to, use of, or
2 disclosure of consumer data in violation of this section by the
3 factory or a third party to whom the factory has provided consumer
4 data. Nothing contained in this section shall limit the ability of
5 the factory or a third party acting on the factory's behalf to
6 require that the new motor vehicle dealer provide, or use in
7 accordance with the law, such consumer information related solely to
8 such factory's own vehicle makes to the extent necessary to do any
9 of the following:

- 10 a. satisfy any safety or recall notice obligations or
11 other legal notice obligations on the part of the
12 manufacturer,
- 13 b. validate and pay to a new motor vehicle dealer a
14 consumer or new motor vehicle dealer incentive,
- 15 c. submit claims to the factory for any services supplied
16 by the new motor vehicle dealer for any claim for
17 warranty parts or repair,
- 18 d. complete the sale and delivery of a new motor vehicle
19 to a consumer,
- 20 e. conduct market analysis which is used by the factory
21 for internal purposes only and the consumer data is
22 not distributed to third parties for use or sale other
23 than acting in the course of performance of services
24

1 on behalf of or for the benefit of the factory related
2 to the market analysis,

- 3 f. evaluate sales and customer service satisfaction with
4 the new motor vehicle dealer, including surveys, or
5 g. use for tier one marketing of the factory's products.

6 Notwithstanding the foregoing, the indemnification requirements
7 contained in this paragraph shall continue to apply to all consumer
8 data used for the purposes enumerated according to the exceptions
9 listed in this paragraph; and

10 6. In any cause of action against the factory for a violation
11 of this section, the party bringing the action shall have the burden
12 of proof.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 564.6 of Title 47, unless there
15 is created a duplication in numbering, reads as follows:

16 If any part or provision of this act or the application thereof
17 to any person or circumstance be adjudged invalid by any court of
18 competent jurisdiction, such judgment shall be confined in its
19 operation to the part, provision or application directly involved in
20 the controversy in which such judgment shall have been rendered and
21 shall not affect or impair the validity of the remainder of this act
22 or the application thereof to other persons or circumstances.

23 SECTION 5. AMENDATORY 47 O.S. 2021, Section 562, is
24 amended to read as follows:

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

6 1. "Motor vehicle" means any motor-driven vehicle required to
7 be registered under the Oklahoma Vehicle License and Registration
8 Act. The term "motor vehicle" does not include:

9 a. recreational vehicles, as defined in the Recreational
10 Vehicle Franchise Act, or

11 b. all-terrain vehicles, utility vehicles, and
12 motorcycles used exclusively for off-road use which
13 are sold by a retail implement dealer;

14 2. "New motor vehicle dealer" means any person, firm,
15 association, corporation or trust not excluded by this paragraph ~~who~~
16 that sells, leases, exchanges or otherwise conveys a new motor
17 vehicle at retail, offers for sale, ~~advertises to sell, leases or~~
18 lease, exchange or other conveyance of a new motor vehicle, offers
19 through a subscription or like arrangement, displays new motor
20 vehicles, offers vehicle test drives or demonstrations of new motor
21 vehicle functions or features, or otherwise engages in any way, in
22 whole or in part, in the business of selling, leasing, exchanging or
23 otherwise conveying new motor vehicles and used motor vehicles, as
24 well as performing warranty repairs, including offering in exchange

1 for payment within eighteen (18) months from the retail sale of the
2 vehicle any software or hardware upgrade or change to vehicle
3 functions and features, whether provided remotely or otherwise,
4 where these functions and features were available at the time the
5 new motor vehicle was sold at retail, and holds a bona fide ~~contract~~
6 ~~or~~ franchise in effect with a manufacturer or distributor authorized
7 by the manufacturer to establish a physical place of business in the
8 state which is of such reasonably sufficient size and accommodation
9 to perform the activities of a new motor vehicle dealer, including
10 vehicle inventory and display, sales activity, ~~make~~ predelivery
11 preparation of ~~such~~ new motor vehicles sold, leased or otherwise
12 conveyed to purchasers consumers, and ~~to perform~~ post-sale work
13 pursuant to the manufacturer's or distributor's warranty and recall
14 policies. As used herein, "authorized predelivery preparation"
15 means the rendition by the dealer of services and safety adjustments
16 on each new motor vehicle in accordance with the procedure and
17 safety standards required by the manufacturer of the vehicle to be
18 made before its delivery to the purchaser. "Performance of
19 authorized post-sale work pursuant to the warranty", as used herein,
20 means the rendition of services which are required by the terms of
21 the warranty that stands extended to the vehicle at the time of its
22 sale and are to be made in accordance with the safety standards
23 prescribed by the manufacturer. The term includes premises or
24 facilities at which a person engages only in the repair of motor

1 vehicles if repairs are performed pursuant to the terms of a
2 franchise ~~and or~~ motor vehicle manufacturer's warranty and recall
3 policies. ~~However, the term shall not include premises or~~
4 ~~facilities at which a new motor vehicle dealer or dealers within the~~
5 ~~area of responsibility of such dealer or dealers as defined in the~~
6 ~~manufacturer's franchise agreement of such dealer or dealers~~
7 ~~performs motor vehicle repairs pursuant to the terms of a franchise~~
8 ~~and motor vehicle manufacturer's warranty.~~ For the purpose of
9 Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title,
10 the terms "new motor vehicle dealer" and "new motor vehicle
11 dealership" shall be synonymous. The term "new motor vehicle
12 dealer" does not include:

- 13 a. receivers, trustees, administrators, executors,
14 guardians or other persons appointed by or acting
15 under judgment or order of any court,
- 16 b. public officers while performing or in operation of
17 their duties, ~~or~~
- 18 c. employees of persons, corporations or associations
19 enumerated in subparagraph a of this paragraph when
20 engaged in the specific performance of their duties as
21 such employee, or
- 22 d. a powersports vehicle dealer;

23 3. "Motor vehicle salesperson" means any person who, for gain
24 or compensation of any kind, either directly or indirectly,

1 regularly or occasionally, by any form of agreement or arrangement,
2 sells or negotiates for the sale, lease, conveyance or arranges the
3 financing of any new motor vehicle for any new motor vehicle dealer
4 to any one or more third parties;

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

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

11 6. "Distributor" means any person, firm, association,
12 corporation or trust, resident or nonresident, ~~who~~ that, being
13 authorized by the original manufacturer, in whole or in part sells
14 or distributes new and unused motor vehicles to motor vehicle
15 dealers, or ~~who~~ that maintains distributor representatives;

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

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

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

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

12 11. "Franchise" means any contract or agreement between a new
13 motor vehicle dealer and a manufacturer of a new motor vehicle or
14 its distributor or factory branch by which the new motor vehicle
15 dealer is authorized to engage in the ~~business of selling any~~
16 ~~specified make or makes of new motor vehicles~~ activities of a new
17 motor vehicle dealer as defined by this section;

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

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

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

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

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

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

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

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

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

1 and which is permitted to display and provide test drives of new
2 motor vehicles on a temporary basis in conjunction with a specific
3 event such as an auto show sponsored by a statewide or local trade
4 association of franchised dealers and held within the geographic
5 area of the dealer members of such association;

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

8 22. "Powersports vehicle dealer" means any person, firm, or
9 corporation ~~who~~ that is in the business of selling any new
10 powersports vehicles except for retail implement dealers; ~~and~~

11 23. "Retail implement dealer" means a business engaged
12 primarily in the sale of farm tractors as defined in Section 1-118
13 of this title or implements of husbandry as defined in Section 1-125
14 of this title or a combination thereof;

15 24. "Consumer data" means nonpublic personal information as
16 such term is defined in 15 U.S.C., Section 6809(4) as it existed on
17 January 1, 2022, that is:

18 a. collected by a new motor vehicle dealer, and

19 b. provided by the new motor vehicle dealer directly to a
20 manufacturer or third party acting on behalf of a
21 manufacturer.

22 Such term shall not include the same or similar data obtained by
23 a manufacturer from any source other than the new motor vehicle
24 dealer or new motor vehicle dealer's data management system;

1 25. "Data management system" means a computer hardware or
2 software system that:

3 a. is owned, leased or licensed by a new motor vehicle
4 dealer including a system or web-based applications,
5 computer software or computer hardware,

6 b. is located at the dealership or hosted remotely, and

7 c. stores and provides access to consumer data collected
8 or stored by a new motor vehicle dealer.

9 Such term shall include, but shall not be limited to, dealership
10 management systems and customer relations management systems; and

11 26. "Fleet vehicle" means a new motor vehicle sold and titled
12 or registered to a business and used for business purposes only.

13 SECTION 6. AMENDATORY 47 O.S. 2021, Section 564, is
14 amended to read as follows:

15 Section 564. A. It shall be unlawful for any person, firm,
16 association, corporation or trust to engage in business as, or serve
17 in the capacity of, or act as a new motor vehicle dealer or
18 manufacturer or distributor of new motor vehicles, or factory
19 branch, distributor branch or factory representative or distributor
20 representative, as ~~such~~ defined in Section 562 of this title, in
21 this state without first obtaining a license therefor as provided
22 for by law. Any person, firm, association, corporation or trust
23 engaging in more than one of such capacities or having more than one
24 place where such business is carried on or conducted shall be

1 required to obtain and hold a current license for each thereof.
2 Provided that, a new motor vehicle dealer's license shall authorize
3 one person to sell in the event such person shall be the owner of a
4 proprietorship, or the person designated as principal in the
5 dealer's franchise or the managing officer or one partner if no
6 principal person is named in the franchise. It is further provided
7 that a factory or an entity affiliated by any ownership or control
8 by the factory shall not be permitted to be licensed as a new motor
9 vehicle dealer in this state, except as provided by subparagraph b
10 of paragraph 12 of Section 565 of this title.

11 B. Applications for licenses required to be obtained under
12 provisions of Section 561 et seq. of this title shall be verified by
13 the oath or affirmation of the applicant and shall be on forms
14 prescribed by the Oklahoma Motor Vehicle Commission and furnished to
15 such applicants, and shall contain such information as the
16 Commission deems necessary to enable it to fully determine the
17 qualifications and eligibility of the several applicants to receive
18 the license or licenses applied for. The Commission shall require
19 in such application, or otherwise, information relating to the
20 applicant's financial standing, the applicant's business integrity,
21 whether the applicant has an established place of business and is
22 primarily engaged in the pursuit, avocation or business for which a
23 license, or licenses, are applied for, and whether the applicant is
24 able to properly conduct the business for which a license, or

1 licenses, are applied for, and such other pertinent information
2 consistent with the safeguarding of the public interest and the
3 public welfare. All such applications for license or licenses shall
4 be accompanied by the appropriate fee or fees therefor in accordance
5 with the schedule thereof hereinafter set out. In the event any
6 such application is denied and the license applied for is not
7 issued, the entire license fee shall be returned to the applicant.
8 All licenses issued under the provisions of Section 561 et seq. of
9 this title shall expire on June 30, following the date of issue and
10 shall be nontransferable. All applications for renewal of a license
11 for a new motor vehicle dealer, manufacturer, distributor or
12 manufacturer's or distributor's representative shall be submitted by
13 June 1 of each year, and such license or licenses will be issued by
14 July 1. If applications have not been made for renewal of licenses
15 at the times described in this subsection, it shall be illegal for
16 any person to represent himself or herself and act as a dealer,
17 manufacturer, distributor or manufacturer's or distributor's
18 representative. Motor license agents will be notified not to accept
19 such dealers' titles until such time as licenses have been issued by
20 the Commission.

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

1 1. For each factory branch or distributor branch, Four Hundred
2 Dollars (\$400.00) initial fee with annual renewal fee of Three
3 Hundred Dollars (\$300.00);

4 2. For each manufacturer or distributor of new motor vehicles,
5 Four Hundred Dollars (\$400.00) initial fee with annual renewal fee
6 of Three Hundred Dollars (\$300.00);

7 3. For each factory representative or distributor
8 representative, One Hundred Dollars (\$100.00) annually;

9 4. For each new motor vehicle dealer, except powersports
10 vehicle dealers, initial fee of Three Hundred Dollars (\$300.00) per
11 franchise sold at each location licensed, with an annual renewal fee
12 of One Hundred Dollars (\$100.00) per franchise sold at each location
13 per year; ~~and~~

14 5. For each powersports vehicle dealer, initial fee of Three
15 Hundred Dollars (\$300.00) per manufacturer represented by the dealer
16 at each location licensed, with an annual renewal fee of One Hundred
17 Dollars (\$100.00) per manufacturer represented by the dealer at each
18 location licensed per year; and

19 6. For each motor vehicle direct shipper, initial fee of Three
20 Hundred Dollars (\$300.00), with an annual renewal fee of One Hundred
21 Dollars (\$100.00).

22 D. The licenses issued to each new motor vehicle dealer,
23 manufacturer, distributor, factory branch, distributor branch or
24 representative, if a corporation, shall specify the location of the

1 factory, office or branch thereof. In case such location is
2 changed, the Commission may endorse the change of location on the
3 license without charge unless the change of address triggers a
4 relocation of a new motor vehicle dealer pursuant to the provisions
5 of Section 578.1 of this title. The license of each new motor
6 vehicle dealer shall be posted in a conspicuous place in the new
7 motor vehicle dealer's place or places of business.

8 Every motor vehicle factory representative or distributor
9 representative if an individual shall physically possess the license
10 when engaged in business, and shall display same upon request. The
11 name of the employer of such factory representative or distributor
12 representative shall be stated on the license and, in case of a
13 change of employer, the holder of such license shall immediately
14 mail same to the Commission for its endorsement of such change
15 thereon. The Commission shall endorse each such change of employer
16 on licenses for a fee of Ten Dollars (\$10.00).

17 E. The powersports dealer license shall only allow the sale of
18 the specific types of powersports vehicles authorized by the
19 manufacturer and agreed to by the powersports dealer.

20 F. A manufacturer operating a facility in this state which, as
21 of January 1, 2022, displays vehicles at said facility, performs
22 warranty repairs on its vehicles at said facility and ships new
23 motor vehicles directly to residents of this state is exempt from
24 the provisions of Sections 561 through 567, 572, 578.1, 579 and

1 579.1 of this title which would prohibit that manufacturer from
2 continuing to display vehicles, perform warranty repairs on its
3 vehicles and ship new motor vehicles directly to residents of this
4 state. Any such manufacturer shall be strictly limited to these
5 activities and, among any other activities, shall not be permitted
6 to sell new motor vehicles from its facility in this state. The
7 Commission shall promulgate rules creating the appropriate license
8 and application for any such manufacturer to conduct only the
9 activities set out in this subsection. Any such manufacturer shall
10 be considered a new motor vehicle dealer licensed in this state for
11 purposes of Section 2 of this act, whereby such manufacturer shall
12 not be required to obtain a motor vehicle direct shipper license to
13 ship a new motor vehicle to a person, association or entity that is
14 an Oklahoma resident.

15 SECTION 7. AMENDATORY 47 O.S. 2021, Section 565, is
16 amended to read as follows:

17 Section 565. A. The Oklahoma Motor Vehicle Commission may deny
18 an application for a license, ~~or~~ revoke or suspend a license, or
19 impose a fine against any person, not to exceed Ten Thousand Dollars
20 (\$10,000.00) ~~against a manufacturer or distributor or a fine not to~~
21 ~~exceed One Thousand Dollars (\$1,000.00) against a dealer,~~ per
22 occurrence ~~that~~, who violates any provision of Sections 561 through
23 567, 572, 578.1, 579 and 579.1 of this title ~~is violated~~ or for any
24 of the following reasons:

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

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

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

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

12 5. Being a new motor vehicle dealer who:

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

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

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

22 d. has failed or refused to perform any written agreement
23 with any retail buyer involving the sale of a motor
24 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:

- a. does not have an established place of business,
- b. does not provide for a suitable repair shop separate from the display room with ample space to repair or recondition one or more vehicles at the same time, and which is staffed with properly trained and qualified

1 repair technicians and is equipped with such parts,
2 tools and equipment as may be requisite for the
3 servicing of motor vehicles in such a manner as to
4 make them comply with the safety laws of this state
5 and to properly fulfill the new motor vehicle dealer's
6 or manufacturer's warranty obligation,

7 c. does not hold a franchise in effect with a
8 manufacturer or distributor of new or unused motor
9 vehicles for the sale of the same and is not
10 authorized by the manufacturer or distributor to
11 render predelivery preparation of such vehicles sold
12 to purchasers and to perform any authorized post-sale
13 work pursuant to the manufacturer's or distributor's
14 warranty,

15 d. employs a person without obtaining a certificate of
16 registration for the person, or utilizes the services
17 of used motor vehicle lots or dealers or other
18 unlicensed persons in connection with the sale of new
19 motor vehicles,

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

22 f. fails to order and stock a reasonable number of new
23 motor vehicles necessary to meet ~~customer~~ consumer
24 demand for each of the new motor vehicles included in

1 the new motor vehicle dealer's franchise agreement,
2 unless the new motor vehicles are not readily
3 available from the manufacturer or distributor due to
4 limited production;

5 8. Being a factory that has:

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

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

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

19 (3) to order or accept delivery of any parts,
20 accessories, equipment, machinery, tools,
21 appliances or any commodity whatsoever, ~~or~~ except
22 for those necessary to service a vehicle that the
23 new motor vehicle dealer is authorized by the
24 factory to sell or repair,

- b. induced under threat or discrimination by the withholding from delivery to a new motor vehicle dealer certain models of motor vehicles, changing or amending unilaterally the new motor vehicle dealer's allotment of motor vehicles and/or withholding and delaying delivery of such vehicles out of the ordinary course of business, in order to induce by such coercion any such new motor vehicle dealer to participate or contribute to any local or national advertising fund controlled directly or indirectly by the factory or for any other purposes such as contest, ~~"give-aways"~~ "giveaways" or other so-called sales promotional devices and/or change of quotas in any sales contest; or has required new motor vehicle dealers, as a condition to receiving their vehicle allotment, to order a certain percentage of the vehicles with optional equipment not specified by the new motor vehicle dealer; however, nothing in this section shall prohibit a factory from supporting an advertising association which is open to all new motor vehicle dealers on the same basis,
- c. used an unreasonable, arbitrary or unfair sales or other standard to measure a new motor vehicle dealer's performance under any factory program, policy or the

1 franchise agreement. It shall be considered
2 unreasonable, arbitrary and unfair for the factory to
3 fail to take into account the new motor vehicle
4 dealer's specific and market circumstances in
5 establishing the sales or other standard,

- 6 d. failed or refused to sell, or offer for sale, new
7 motor vehicles to all of its same line-make franchised
8 new motor vehicle dealers at the same price for a
9 comparably equipped motor vehicle, on the same terms,
10 with no differential in functionally available
11 discount, allowance, credit or bonus. For a factory
12 program or policy which goes into effect after
13 November 1, 2022, any differential in discount,
14 allowance, credit, or bonus paid to new motor vehicle
15 dealers on a per vehicle basis in exchange for
16 compliance with a facility requirement of the factory
17 shall be a violation of this section. However, a
18 factory is not prohibited from making payment to a new
19 motor vehicle dealer on a lump sum or periodic basis
20 for compliance with a facility requirement as long as
21 said payment is not made on a per vehicle basis,
- 22 e. failed to reimburse a new motor vehicle dealer in full
23 for the actual cost of providing a loaner or rental
24 vehicle to any consumer who is having a vehicle

1 serviced at the dealership if the provision of such a
2 loaner or rental vehicle is required by the factory.
3 For purposes of this paragraph, actual cost shall not
4 exceed the average cost in the new motor vehicle
5 dealer's region for the rental of a substantially
6 similar make and model as the vehicle being serviced;

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 new motor vehicle dealer;
14 or 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~~ has failed to adequately and
23 fairly compensate its dealers for labor, parts and
24 other expenses incurred by such dealer to perform

1 under and comply with manufacturer's warranty
2 agreements, and recall repairs which shall include
3 diagnostic work as applicable and factory-authorized
4 goodwill repairs. Time allowances for the diagnosis
5 and performance of repair work shall be reasonable and
6 adequate for the work to be performed. Adequate and
7 fair compensation for parts and/or labor for warranty
8 and recall repairs shall, at the option of the new
9 motor vehicle dealer, be established by the new motor
10 vehicle dealer submitting to the manufacturer or
11 distributor one hundred sequential nonwarranty
12 ~~customer-paid~~ consumer-paid service repair orders
13 which contain warranty-like ~~parts~~ repairs, or ninety
14 (90) consecutive days of nonwarranty ~~customer-paid~~
15 consumer-paid service repair orders which contain
16 warranty-like ~~parts~~ repairs, whichever is less,
17 covering repairs made no more than one hundred eighty
18 (180) days before the submission and declaring the
19 average percentage markup rate. ~~Adequate and fair~~
20 ~~compensation for labor shall be established by the~~
21 ~~dealer submitting to the manufacturer or distributor~~
22 ~~one hundred sequential customer-paid service repair~~
23 ~~orders which contain labor charges, or ninety (90)-~~
24 ~~consecutive days of customer-paid service repair~~

1 ~~orders which contain labor charges, whichever is less.~~

2 A new motor vehicle dealer may not submit a request to
3 establish a parts and/or labor rate more than once in
4 a twelve-month period. The new motor vehicle dealer
5 shall calculate its retail parts rate by determining
6 the total charges for parts from the qualified repair
7 orders submitted, dividing that amount by the new
8 motor vehicle dealer's total cost of the purchase of
9 those parts, subtracting one (1), and multiplying by
10 one hundred (100) to produce a percentage. The new
11 motor vehicle dealer shall calculate its retail labor
12 rate by dividing the amount of the new motor vehicle
13 dealer's total labor sales from the qualified repair
14 orders by the total labor hours charged for those
15 sales. When submitting repair orders to ~~calculate~~
16 establish a retail parts and/or labor rate, a new
17 motor vehicle dealer need not include ~~repair orders~~
18 repairs for:

- 19 (1) routine maintenance including, but not limited
20 to, the replacement of bulbs, fluids, filters,
21 batteries and belts that are not provided in the
22 course of and related to a repair,
23 (2) factory special events, specials or promotional
24 discounts for retail consumer repairs,

- (3) parts sold or repairs performed at wholesale,
- (4) factory-approved goodwill or policy repairs or
replacements,
- (5) repairs with aftermarket parts, when calculating
the retail parts rate but not the retail labor
rate,
- (6) repairs on aftermarket parts,
- (7) replacement of or work on tires including front-
end alignments and wheel or tire rotations,
- (8) repairs of motor vehicles owned by the new motor
vehicle dealer or employee thereof at the time of
the repair,
- (9) engine and/or transmission assemblies,
- (10) vehicle reconditioning, or
- (11) items that do not have individual part numbers
including, but not limited to, nuts, bolts and
fasteners.

A manufacturer or distributor may, not later than thirty
(30) days after submission, rebut that declared retail
parts and/or labor rate in writing by reasonably
substantiating that the rate is ~~inaccurate~~ not accurate and
complete pursuant to the provisions of this section or
unreasonable in ~~light of the practices of all other~~
~~franchised motor vehicle dealers in an economically similar~~

1 ~~part of the state offering the same line make vehicles~~
2 consideration of the rates charged to the new motor vehicle
3 dealer's nonwarranty, retail consumers. The retail ~~rate~~
4 labor and parts rates shall go into effect thirty (30) days
5 following the approval by the manufacturer or distributor,
6 subject to audit of the submitted repair orders by the
7 franchisor and a rebuttal of the declared rate as described
8 ~~above~~ in this subparagraph. If the declared rate is
9 rebutted, the manufacturer or distributor shall provide
10 written notice stating the reasons for the rebuttal, an
11 explanation of the reasons for the rebuttal, a copy of all
12 calculations used by the franchisor in determining the
13 manufacturer or distributor's position and propose an
14 adjustment in writing of the average percentage markup or
15 labor rate based on that rebuttal not later than thirty
16 (30) days after submission. If the new motor vehicle
17 dealer does not agree with the proposed average percentage
18 markup or labor rate, the new motor vehicle dealer may file
19 a protest with the Commission not later than thirty (30)
20 days after receipt of that proposal by the manufacturer or
21 distributor. In the event a protest is filed, the
22 manufacturer or distributor shall have the burden of proof
23 to establish the new motor vehicle dealer's submitted parts
24 markup rate or labor rate was inaccurate or unreasonable in

1 ~~light of the practices of all other franchised motor~~
2 ~~vehicle dealers in an economically similar part of the~~
3 ~~state~~ consideration of the rates charged to the new motor
4 vehicle dealer's nonwarranty, retail consumers. A
5 manufacturer or distributor may not retaliate against any
6 new motor vehicle dealer seeking to exercise its rights
7 under this ~~provision~~ section. ~~A manufacturer or~~
8 ~~distributor may require a dealer to submit repair orders in~~
9 ~~accordance with this section in order to validate a~~
10 ~~dealer's retail rate for parts or labor not more often than~~
11 ~~once every twelve (12) months.~~ A manufacturer or
12 distributor may not otherwise recover its costs from new
13 motor vehicle dealers within this state including an
14 increase in the wholesale price of a vehicle or surcharge
15 imposed on a new motor vehicle dealer solely intended to
16 recover the cost of reimbursing a new motor vehicle dealer
17 for parts and labor pursuant to this section; provided, a
18 manufacturer or distributor shall not be prohibited from
19 increasing prices for vehicles or parts in the normal
20 course of business. All claims made by dealers for
21 compensation for delivery, preparation and warranty, or
22 recall repair work shall be paid within thirty (30) days
23 after approval and shall be approved or disapproved within
24 thirty (30) days after receipt. When any claim is

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

1 claim or implement a charge-back against a new motor
2 vehicle dealer after payment of a claim in the event a
3 purchaser of a new vehicle that is the subject of a claim
4 fails to comply with titling or registration laws of this
5 state and is not prevented from compliance by any action of
6 the new motor vehicle dealer; provided, that the factory
7 may require the new motor vehicle dealer to establish the
8 sale. The factory shall provide written notice to a dealer
9 of a proposed charge-back that is the result of an audit
10 along with the specific audit results and proposed charge-
11 back amount. A dealer that receives notice of a proposed
12 charge-back pursuant to a factory's audit has the right to
13 file a protest with the Commission within thirty (30) days
14 after receipt of the notice of the charge-back or audit
15 results, whichever is later. The factory is prohibited
16 from implementing the charge-back or debiting the dealer's
17 account until either the time frame for filing a protest
18 has passed or a final adjudication is rendered by the
19 Commission, whichever is later, unless the dealer has
20 agreed to the charge-back or charge-backs,

21 c. fails to compensate the new motor vehicle dealer for a
22 used motor vehicle:

23 (1) that is of the same make and model manufactured,
24 imported or distributed by the factory and is a

line-make that the new motor vehicle dealer is
franchised to sell or on which the new motor
vehicle dealer is authorized to perform recall
repairs,

(2) that is subject to a stop-sale or do-not-drive
notice issued by the factory or an authorized
governmental agency,

(3) that is held by the new motor vehicle dealer in
the dealer's inventory at the time the stop-sale
or do-not-drive notice is issued or that is taken
by the new motor vehicle dealer into the dealer's
inventory after the recall notice as a result of
a retail consumer trade-in or a lease return to
the dealer inventory in accordance with an
applicable lease contract,

(4) that cannot be repaired due to the
unavailability, within thirty (30) days after
issuance of the stop-sale or do-not-drive notice,
of a remedy or parts necessary for the new motor
vehicle dealer to make the recall repair, and

(5) that is not at least in the prorated amount of
one and one-quarter percent (1.25%) of the value
of the vehicle per month beginning on the date
that is thirty (30) days after the date on which

1 the stop-sale order was provided to the new motor
2 vehicle dealer until the earlier of either of the
3 following:

4 (a) the date the recall remedy or parts are made
5 available, or

6 (b) the date the new motor vehicle dealer sells,
7 trades, or otherwise disposes of the
8 affected used motor vehicle.

9 For the purposes of division (5) of this subparagraph, the value
10 of a used vehicle shall be the average Black Book value for the
11 year, make, and model of the recalled vehicle.

12 A factory may direct the manner and method in which a new motor
13 vehicle dealer must demonstrate the inventory status of an affected
14 used motor vehicle to determine eligibility under this subparagraph;
15 provided, that the manner and method may not be unduly burdensome
16 and may not require information that is unduly burdensome to
17 provide.

18 All reimbursement claims made by new motor vehicle dealers
19 pursuant to this section for recall remedies or repairs, or for
20 compensation where no part or repair is reasonably available and the
21 vehicle is subject to a stop-sale or do-not-drive order, shall be
22 subject to the same limitations and requirements as a warranty
23 reimbursement claim made under subparagraph b of this paragraph. In
24 the alternative, a manufacturer may compensate its franchised new

1 motor vehicle dealers under a national recall compensation program;
2 provided, the compensation under the program is equal to or greater
3 than that provided under division (5) of this subparagraph, or as
4 the manufacturer and new motor vehicle dealer otherwise agree.

5 Nothing in this section shall require a factory to provide total
6 compensation to a new motor vehicle dealer which would exceed the
7 total average Black Book value of the affected used motor vehicle as
8 originally determined under division (5) of this subparagraph.

9 Any remedy provided to a new motor vehicle dealer under this
10 subparagraph is exclusive and may not be combined with any other
11 state or federal compensation remedy.

12 d. unreasonably fails or refuses to offer to its same
13 line-make franchised dealers a reasonable supply and
14 mix of all models manufactured for that line-make, or
15 unreasonably requires a dealer to pay any extra fee,
16 purchase unreasonable advertising displays or other
17 materials, or enter into a separate agreement which
18 alters the rights or obligations contained within the
19 new motor vehicle dealer's existing franchise
20 agreement or which waives any right the new motor
21 vehicle dealer has within the existing franchise
22 agreement, or remodel, renovate, or recondition the
23 new motor vehicle dealer's existing facilities as a
24 prerequisite to receiving a model or series of

1 vehicles, except as may be necessary to sell or
2 service the model or series of vehicles as provided by
3 subparagraph e of this paragraph. It shall be a
4 violation of this section for new vehicle allocation
5 to be withheld subject to any requirement to purchase
6 or sell any number of used or off-lease vehicles. The
7 failure to deliver any such new motor vehicle shall
8 not be considered a violation of the section if the
9 failure is not arbitrary or is due to lack of
10 manufacturing capacity or to a strike or labor
11 difficulty, a shortage of materials, a freight embargo
12 or other cause over which the manufacturer has no
13 control. However, this subparagraph shall not apply
14 to recreational vehicles ~~or~~, limited production model
15 vehicles, or a vehicle not advertised by the factory
16 for sale in this state,

17 ~~d.~~ e. 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 new
4 motor vehicle dealer's market and in the automotive
5 industry. However, this subparagraph shall not apply
6 if the ~~factory provides~~ new motor vehicle dealer
7 voluntarily agrees to facility construction or
8 renovation in exchange for money, credit, allowance,
9 reimbursement, except for payments on a per vehicle
10 basis, or additional vehicle allocation to a new motor
11 vehicle dealer from the factory to compensate the new
12 motor vehicle dealer for the cost of, or a portion of
13 the cost of, the facility construction or renovation.
14 Except as necessary to comply with a health or safety
15 law, or to comply with a technology or safety
16 requirement which is necessary to sell or service a
17 motor vehicle that the franchised new motor vehicle
18 dealer is authorized or licensed by the franchisor to
19 sell or service, a new motor vehicle dealer which
20 completes a facility construction or renovation
21 pursuant to factory requirements shall not be required
22 to construct a new facility or renovate the existing
23 facility for ten (10) years, during which time the
24 new motor vehicle dealer will be considered in

1 compliance with any new facility program involving any
2 part of the facility which was previously renovated
3 for purposes of being entitled to all incentive or
4 bonus payments offered to same line-make new motor
5 vehicle dealers,

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

15 ~~f.~~ g. requires a new motor vehicle dealer to enter into a
16 site-control agreement covering any or all of the new
17 motor vehicle dealer's facilities or premises;
18 provided, that this ~~provision~~ section shall not
19 restrict the terms of any site-control agreement
20 voluntarily entered into and supported by valuable
21 consideration separate from the new motor vehicle
22 dealer's right to sell and service motor vehicles for
23 the franchisor. Notwithstanding the foregoing or the
24 terms of any site-control agreement, a site-control

1 agreement automatically extinguishes if all of the
2 factory's franchises that operated from the location
3 that are the subject of the site-control agreement are
4 terminated by the factory as part of the
5 discontinuance of a product line, ~~or~~

6 ~~g.~~ h. refuses to pay, or claims reimbursement from, a new
7 motor vehicle dealer for sales, incentives or other
8 payments related to a motor vehicle sold by the new
9 motor vehicle dealer because the purchaser of the
10 motor vehicle exported or resold the motor vehicle in
11 violation of the policy of the factory unless the
12 factory can show that, at the time of the sale, the
13 new motor vehicle dealer knew or reasonably should
14 have known of the purchaser's intention to export or
15 resell the motor vehicle. There is a rebuttable
16 presumption that the new motor vehicle dealer did not
17 know or could not have known that the vehicle would be
18 exported if the vehicle is titled and registered in
19 any state of the United States, or

20 i. requires a new motor vehicle dealer to purchase goods
21 or services for the construction, renovation, or
22 improvement of the dealer's facility from a vendor
23 chosen by the factory if goods or services available
24 from other sources are of substantially similar

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

15 10. Being a factory that:

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

1 b. changes an established plan or system of motor vehicle
2 distribution. A new motor vehicle dealer franchise
3 agreement shall continue in full force and operation
4 notwithstanding a change, in whole or in part, of an
5 established plan or system of distribution of the
6 motor vehicles offered or previously offered for sale
7 under such franchise agreement. The appointment of a
8 new importer or distributor for motor vehicles offered
9 for sale under such franchise agreement shall be
10 deemed to be a change of an established plan or system
11 of distribution. The discontinuation of a line-make
12 shall not be deemed to be a change of an established
13 plan or system of motor vehicle distribution. The
14 creation of a line-make shall not be deemed to be a
15 change of an established plan or system of motor
16 vehicle distribution as long as the new line-make is
17 not selling vehicles or substantial parts of vehicles
18 sold or previously sold through another line-make.
19 Upon the occurrence of such change, the manufacturer
20 or distributor shall be prohibited from obtaining a
21 license to distribute vehicles under the new plan or
22 system of distribution unless the manufacturer or
23 distributor offers to each new motor vehicle dealer
24 who is a party to the franchise agreement a new

1 franchise agreement containing substantially the same
2 provisions which were contained in the previous
3 franchise agreement;

4 11. Being a factory that sells directly or indirectly new motor
5 vehicles to any retail consumer in the state except through a new
6 motor vehicle dealer holding a franchise for the line-make that
7 includes the new motor vehicle. This paragraph does not apply to
8 factory sales of new motor vehicles to its employees, family members
9 of employees, retirees and family members of retirees, not-for-
10 profit organizations or the federal, state or local governments.
11 The provisions of this paragraph shall not preclude a factory from
12 providing information to a consumer for the purpose of marketing or
13 facilitating a sale of a new motor vehicle through its franchised
14 new motor vehicle dealers or from establishing a program to sell or
15 offer to sell new motor vehicles through participating dealers
16 subject to the limitations contained in paragraph 2 of Section 562
17 of this title;

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

- 19 (1) owns any ownership interest or has any financial
20 interest in a new motor vehicle dealer or any
21 person who sells products or services pursuant to
22 the ~~public~~ terms of the franchise agreement,
23 (2) operates or controls a new motor vehicle dealer,
24 or

1 (3) acts in the capacity of a new motor vehicle
2 dealer.

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

15 (2) This paragraph does not prohibit a factory from
16 owning, operating, controlling or acting in the
17 capacity of a new motor vehicle dealer for a
18 period not to exceed twelve (12) months during
19 the transition from one independent dealer to
20 another independent dealer if the dealership is
21 for sale at a reasonable price and on reasonable
22 terms and conditions to an independent qualified
23 buyer. On showing by a factory of good cause,
24 the Oklahoma Motor Vehicle Commission may extend

1 the time limit set forth above; extensions may be
2 granted for periods not to exceed twelve (12)
3 months.

4 (3) This paragraph does not prohibit a factory from
5 owning, operating or controlling or acting in the
6 capacity of a new motor vehicle dealer which was
7 in operation prior to January 1, 2000.

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

15 (a) all of the motor vehicle dealerships selling
16 the motor vehicles of that manufacturer in
17 this state trade exclusively in the line-
18 make of that manufacturer,

19 (b) all of the franchise agreements of the
20 manufacturer confer rights on the dealer of
21 the line-make to develop and operate, within
22 a defined geographic territory or area, as
23 many dealership facilities as the dealer and
24 manufacturer shall agree are appropriate,

1 (c) at the time the manufacturer first acquires
2 an ownership interest or assumes operation,
3 the distance between any dealership thus
4 owned or operated and the nearest
5 unaffiliated motor vehicle dealership
6 trading in the same line-make is not less
7 than seventy (70) miles,

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

15 (e) prior to January 1, 2000, the factory shall
16 have furnished or made available to
17 prospective motor vehicle dealers an
18 offering-circular in accordance with the
19 Trade Regulation Rule on Franchising of the
20 Federal Trade Commission, and any guidelines
21 and exemptions issued thereunder, which
22 disclose the possibility that the factory
23 may from time to time seek to own or
24

1 acquire, directly or indirectly, ownership
2 interests in retail dealerships;

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

- 10 a. derived from monthly financial statements provided to
11 the factory, and
12 b. regarding any aspect of the profitability of a
13 particular new motor vehicle dealer;

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

18 15. Being a factory which used the ~~customer~~ consumer list of a
19 new motor vehicle dealer for the purpose of unfairly competing with
20 dealers;

21 16. Being a factory which prohibits a new motor vehicle dealer
22 from relocating after a written request by such new motor vehicle
23 dealer if:
24

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

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

23 18. Being a factory that increases prices of new motor vehicles
24 which the new motor vehicle dealer had ordered for retail consumers

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

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

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

23 20. Being a factory that denies any new motor vehicle dealer
24 the right of free association with any other new motor vehicle

1 dealer for any lawful purpose, unless otherwise permitted by this
2 chapter; or

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

8 a. by an act or statement from the factory that will in
9 any manner adversely impact the new motor vehicle
10 dealer,

11 b. by measuring the new motor vehicle dealer's
12 performance under the franchise based on the sale of
13 extended service contracts, extended maintenance plans
14 or similar products offered, endorsed or sponsored by
15 the manufacturer or distributor.

16 B. Notwithstanding the terms of any franchise agreement, in the
17 event of a proposed sale or transfer of a dealership, the
18 manufacturer or distributor shall be permitted to exercise a right
19 of first refusal to acquire the assets or ownership interest of the
20 dealer of the new vehicle dealership, if such sale or transfer is
21 conditioned upon the manufacturer or dealer entering into a dealer
22 agreement with the proposed new owner or transferee, only if all the
23 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 8. AMENDATORY 47 O.S. 2021, Section 565.1, is
4 amended to read as follows:

5 Section 565.1 A. For purposes of this section, "designated
6 successor" means a person who the new motor vehicle dealer has
7 designated to take over operation of the dealership or a family
8 member of the new motor vehicle dealer who the new motor vehicle
9 dealer has designated to take over operation or ownership of the
10 dealership.

11 B. Notwithstanding the terms of any franchise agreement, and
12 subject to the following conditions contained in paragraphs 1
13 through 5 of this ~~section~~ subsection, any manufacturer or
14 distributor who prevents or refuses to honor the succession to the
15 operation of a dealership by any legal heir or devisee under the
16 will of a new motor vehicle dealer or under the laws of descent and
17 distribution of this state, or designated successor to a departing
18 dealership operator, without good cause or good faith, as defined in
19 this section, shall be subject to the following procedure:

20 1. Within one hundred twenty (120) days after the death or
21 departure of the new motor vehicle dealer, the manufacturer shall
22 receive a written notice from any legal heir or devisee or designee
23 successor who intends to ~~establish a~~ become the successor dealership
24 operator. If timely notice is not so received, then this paragraph

1 shall not apply, and any succession shall be governed solely by the
2 terms of the franchise;

3 2. Within thirty (30) days of receipt of the legal heir's ~~or~~,
4 devisee's or successor's timely written notice, the manufacturer may
5 request, and the legal heir ~~or~~, devisee or successor shall, within a
6 reasonable time, provide any information which is reasonably
7 necessary for the manufacturer to evaluate the proposed successor
8 dealer and dealership, including, ~~but not limited to,~~ applications,
9 ~~proposals for facilities~~ and financing;

10 3. Within sixty (60) days of receipt of such information, the
11 manufacturer shall approve or disapprove the proposed successor
12 ~~dealership dealer~~, and in case of disapproval shall communicate in
13 writing such disapproval and grounds for disapproval to the ~~legal~~
14 ~~heir or devisee~~ proposed successor;

15 4. Failure of the manufacturer to act in a timely manner with
16 respect to any time period described above shall constitute a waiver
17 of the manufacturer's right to disapprove the proposed succession;

18 5. Within ten (10) days of ~~its~~ the proposed successor's receipt
19 of the manufacturer's notice of disapproval, the ~~legal heir or~~
20 ~~devisee~~ proposed successor may file a protest of the manufacturer's
21 decision with the Oklahoma Motor Vehicle Commission and request a
22 hearing. Such hearing shall be heard in a substantially similar
23 manner as provided by Section 566 of this title, except that the
24 Commission shall render a final decision within sixty (60) days of

1 the filing of the protest. The manufacturer shall have the burden
2 of proof to show that its disapproval was for a good cause and in
3 good faith. A denial shall not be for good cause and in good faith
4 unless the factory establishes that the ~~legal heir or devisee~~
5 proposed successor, or the ~~legal heir or devisee's~~ proposed
6 successor's controlling executive management, is not of good moral
7 character or fails to meet the written, reasonable and uniformly
8 applied requirements of the manufacturer or distributor relating to
9 financial qualifications, general business experience, and other
10 requirements relating to prospective franchisees. However, a legal
11 heir ~~that~~ who is of good moral character in accordance with ~~the~~
12 ~~factory's~~ reasonable factory qualifications and meets the factory's
13 financial qualifications may rely on controlling executive
14 management that is of good moral character and meets the factory's
15 qualifications for general business experience ~~and other~~
16 ~~requirements relating to prospective franchises.~~ Any denial of the
17 proposed successor based upon a failure to agree to terms other than
18 those contained in the existing franchise agreement shall not be
19 considered good cause for such denial. The disapproval by the
20 manufacturer shall be final if the ~~legal heir or devisee~~ proposed
21 successor or dealership fails to file a timely protest of such
22 disapproval. In the event that the Commission finds that the
23 manufacturer's disapproval was not made for good cause, then it
24 shall issue a final order requiring the manufacturer to honor the

1 successor designated in the notice sent by the legal heir or
2 devisee. Notwithstanding anything to the contrary in this section,
3 a new motor vehicle dealer may designate any person as successor by
4 filing a written instrument pursuant to the franchise with the
5 manufacturer during the new motor vehicle dealer's lifetime. In
6 such a case, the written instrument and franchise shall govern the
7 dealership succession.

8 The suspension, revocation or refusal to issue or renew a
9 license or the imposition of any other penalty by the Commission
10 shall be in addition to any penalty which might be imposed upon any
11 licensee upon judgment or conviction in a court of competent
12 jurisdiction for any violation of the provisions of Sections 561
13 through 567, 572, 578.1, 579 and 579.1 of this title.

14 SECTION 9. AMENDATORY 47 O.S. 2021, Section 565.2, is
15 amended to read as follows:

16 Section 565.2 A. Irrespective of the terms, provisions or
17 conditions of any franchise, or the terms or provisions of any
18 waiver, no manufacturer shall terminate, cancel or fail to renew any
19 franchise with a licensed new motor vehicle dealer unless the
20 manufacturer has satisfied the notice requirements as provided in
21 this section and has good cause for cancellation, termination or
22 nonrenewal. The manufacturer shall not attempt to cancel or fail to
23 renew the franchise agreement of a new motor vehicle dealer in this
24 state unfairly and without just provocation or without due regard to

1 the equities of the dealer or without good faith as defined herein.
2 As used herein, "good faith" means the duty of each party to any
3 franchise agreement to act in a fair and equitable manner toward
4 each other, with freedom from coercion or intimidation or threats
5 thereof from each other.

6 B. Irrespective of the terms, provisions or conditions of any
7 franchise, or the terms or provisions of any waiver, good cause
8 shall exist for the purpose of a termination, cancellation, or
9 nonrenewal when:

10 1. The new motor vehicle dealer has failed to comply with a
11 provision of the franchise, which provision is both reasonable and
12 of material significance to the franchise relationship, or the new
13 motor vehicle dealer has failed to comply with reasonable
14 performance criteria for sales or service established by the
15 manufacturer, and the dealer has been notified by written notice
16 from the manufacturer; and

17 2. The new motor vehicle dealer has received written
18 notification of failure to comply with the manufacturer's reasonable
19 sales performance standards, capitalization requirements, facility
20 commitments, business related equipment acquisitions or other such
21 remediable failings exclusive of those reasons enumerated in
22 paragraph 1 of subsection C of this section, and the new motor
23 vehicle dealer has been afforded a reasonable opportunity of not
24

1 less than six (6) months to comply with such a provision or
2 criteria.

3 C. Irrespective of the terms, provisions or conditions of any
4 franchise agreement prior to the termination, cancellation or
5 nonrenewal of any franchise, the manufacturer shall furnish
6 notification of such termination, cancellation or nonrenewal to the
7 new motor vehicle dealer and the Oklahoma Motor Vehicle Commission
8 as follows:

9 1. Not less than ninety (90) days prior to the effective date
10 of such termination, cancellation or nonrenewal unless for a cause
11 described in paragraph 2 of this subsection;

12 2. Not less than fifteen (15) days prior to the effective date
13 of such termination, cancellation or nonrenewal with respect to any
14 of the following:

- 15 a. insolvency of the new motor vehicle dealer, or the
16 filing of any petition by or against the motor vehicle
17 dealer under any bankruptcy or receivership law,
18 b. failure of the new motor vehicle dealer to conduct its
19 customary sales and service operations during its
20 customary business hours for seven (7) consecutive
21 business days, provided that such failure to conduct
22 business shall not be due to an act of God or
23 circumstances beyond the direct control of the new
24 motor vehicle dealer, or

1 c. conviction of the new motor vehicle dealer of any
2 felony which is punishable by imprisonment or a
3 violation of the Federal Odometer Act; and

4 3. Not less than one hundred eighty (180) days prior to the
5 effective date of such termination or cancellation where the
6 manufacturer or distributor is discontinuing the sale of the product
7 line.

8 The notification required by this subsection shall be by
9 certified mail, return receipt requested, and shall contain a
10 statement of intent to terminate, to cancel or to not renew the
11 franchise, a statement of the reasons for the termination,
12 cancellation or nonrenewal and the date the termination shall take
13 effect.

14 D. Upon the affected new motor vehicle dealer's receipt of the
15 aforementioned notice of termination, cancellation or nonrenewal,
16 the new motor vehicle dealer shall have the right to file a protest
17 of such threatened termination, cancellation or nonrenewal with the
18 Commission within thirty (30) days and request a hearing. Such
19 hearing shall be held in accordance with the provisions of the
20 Administrative Procedures Act, Sections ~~301~~ 250 through ~~326~~ 323 of
21 Title 75 of the Oklahoma Statutes, to determine if the threatened
22 cancellation, termination or nonrenewal of the franchise has been
23 for good cause and if the factory has complied with its obligations
24 pursuant to subsections A, B and C of this section and the factory

1 shall have the burden of proof. If the Commission finds that the
2 threatened cancellation, termination or nonrenewal of the franchise
3 has not been for good cause or violates subsection A, B or C of this
4 section, then it shall issue a final order stating that the
5 threatened termination is wrongful. A factory shall have the right
6 to appeal such order. During the pendency of the hearing and after
7 the decision, the franchise shall remain in full force and effect,
8 including the right to transfer the franchise. If the Commission
9 finds that the threatened cancellation, termination or nonrenewal is
10 for good cause and does not violate subsection A, B or C of this
11 section, the new motor vehicle dealer shall have the right to an
12 appeal. During the pendency of the action, including the final
13 decision or appeal, the franchise shall remain in full force and
14 effect, including the right to transfer the franchise. If the new
15 motor vehicle dealer prevails in the threatened termination action,
16 the Commission shall award to the new motor vehicle dealer the
17 attorney fees and costs incurred to defend the action.

18 E. If the factory prevails in an action to terminate, cancel or
19 not renew any franchise, the new motor vehicle dealer shall be
20 allowed fair and reasonable compensation by the manufacturer for:

21 1. New current and previous model year vehicle inventory which
22 has been acquired from the manufacturer, and which is unused and has
23 not been damaged or altered while in the dealer's possession;

24

1 2. Supplies and parts which have been acquired from the
2 manufacturer, for the purpose of this section, limited to any and
3 all supplies and parts that are listed on the current parts price
4 sheet available to the dealer;

5 3. Equipment and furnishings, provided the new motor vehicle
6 dealer purchased them from the manufacturer or its approved sources;
7 and

8 4. Special tools, with such fair and reasonable compensation to
9 be paid by the manufacturer within ninety (90) days of the effective
10 date of the termination, cancellation or nonrenewal, provided the
11 new motor vehicle dealer has clear title to the inventory and other
12 items and is in a position to convey that title to the manufacturer.

13 a. For the purposes of paragraph 1 of this subsection,
14 fair and reasonable compensation shall be no less than
15 the net acquisition price of the vehicle paid by the
16 new motor vehicle dealer.

17 b. For the purposes of paragraphs 2, 3 and 4 of this
18 subsection, fair and reasonable compensation shall be
19 the net acquisition price paid by the new motor
20 vehicle dealer less a twenty-percent (20%) straight-
21 line depreciation for each year following the dealer's
22 acquisition of the supplies, parts, equipment,
23 furnishings and/or special tools.

1 F. If a factory prevails in an action to terminate, cancel or
2 not renew any franchise and the new motor vehicle dealer is leasing
3 the dealership facilities, the manufacturer shall pay a reasonable
4 rent to the lessor in accordance with and subject to the provisions
5 of subsection G of this section. Nothing in this section shall be
6 construed to relieve a dealer of its duty to mitigate damages.

7 G. 1. Such reasonable rental value shall be paid only to the
8 extent the dealership premises are recognized in the franchise and
9 only if they are:

10 a. used solely for performance in accordance with the
11 franchise. If the facility is used for the operation
12 of more than one franchise, the reasonable rent shall
13 be paid based upon the portion of the facility
14 utilized by the franchise being terminated, canceled
15 or nonrenewed, and

16 b. not substantially in excess of facilities recommended
17 by the manufacturer.

18 2. If the facilities are owned by the new motor vehicle dealer,
19 within ninety (90) days following the effective date of the
20 termination, cancellation or nonrenewal the manufacturer will
21 either:

22 a. locate a qualified purchaser who will offer to
23 purchase the dealership facilities at a reasonable
24 price,

- 1 b. locate a qualified lessee who will offer to lease the
2 premises for the remaining lease term at the rent set
3 forth in the lease, or
4 c. failing the foregoing, lease the dealership facilities
5 at a reasonable rental value for the portion of the
6 facility that is recognized in the franchise agreement
7 for one (1) year.

8 3. If the facilities are leased by the new motor vehicle
9 dealer, within ninety (90) days following the effective date of the
10 termination, cancellation or nonrenewal the manufacturer will
11 either:

- 12 a. locate a tenant or tenants satisfactory to the lessor,
13 who will sublet or assume the balance of the lease,
14 b. arrange with the lessor for the cancellation of the
15 lease without penalty to the dealer, or
16 c. failing the foregoing, lease the dealership facilities
17 at a reasonable rent for the portion of the facility
18 that is recognized in the franchise agreement for one
19 (1) year.

20 4. The manufacturer shall not be obligated to provide
21 assistance under this section if the new motor vehicle dealer:

- 22 a. fails to accept a bona fide offer from a prospective
23 purchaser, subleases or assignee,
24

1 b. refuses to execute a settlement agreement with the
2 lessor if such agreement with the lessor would be
3 without cost to the dealer, or

4 c. fails to make written request for assistance under
5 this section within ninety (90) days after the
6 effective date of the termination, cancellation or
7 nonrenewal.

8 5. The manufacturer shall be entitled to occupy and use any
9 space for which it pays rent required by this section.

10 H. In addition to the repurchase requirements set forth in
11 subsections E and G of this section, in the event the termination or
12 cancellation is the result of a discontinuance of a product line,
13 the manufacturer or distributor shall compensate the new motor
14 vehicle dealer in an amount equivalent to the fair market value of
15 the terminated franchise as of the date ~~of~~ immediately preceding the
16 manufacturer's or distributor's announcement or provide the new
17 motor vehicle dealer with a replacement franchise on substantially
18 similar terms and conditions as those offered to other same line-
19 make dealers. The dealer may immediately request payment under this
20 ~~provision~~ section following the announcement in exchange for
21 cancelling any further franchise rights, except payments owed to the
22 dealer in the ordinary course of business, or may request payment
23 under this ~~provision~~ section upon the final termination,
24 cancellation or nonrenewal of the franchise. In either case,

1 payment under this ~~provision~~ section shall be made not later than
2 ninety (90) days after the fair market value is determined. If the
3 factory and dealer cannot agree on the fair market value of the
4 terminated franchise or agree to a process to determine the fair
5 market value, then the factory and dealer shall utilize a neutral
6 third party mediator to resolve the disagreement.

7 SECTION 10. AMENDATORY 47 O.S. 2021, Section 565.3, is
8 amended to read as follows:

9 Section 565.3 A. A franchised vehicle dealer proposing a sale,
10 transfer, or assignment of a franchise agreement or the business and
11 assets of a dealership or an interest in a dealership to another
12 person, hereinafter transferee, shall notify the manufacturer or
13 distributor whose vehicles the dealer is franchised to sell of the
14 proposed action of the dealer. The manufacturer or distributor may
15 make written request to the proposed transferee to submit completed
16 application forms and related information generally utilized by a
17 manufacturer to evaluate such a proposal and a copy of all
18 agreements related to the proposed sale, transfer, or assignment.

19 B. The approval by the manufacturer or distributor of the sale,
20 transfer, or assignment shall not be unreasonably withheld unless
21 the proposed transferee is not of good moral character or fails to
22 meet the written, reasonable, and uniformly applied requirements of
23 the manufacturer or distributor relating to prospective franchisees.
24 Approval of the transfer shall not be made contingent upon the

1 transferee meeting unreasonable facility requirements or performance
2 standards different than those contained in the transferor's
3 franchise agreement, but may be made contingent upon the proposed
4 transferee meeting reasonable written requirements. The burden of
5 proof shall be upon the manufacturer or distributor to show good
6 cause existed to withhold approval. The manufacturer or distributor
7 that has made such a determination shall send a letter by certified
8 mail to the dealer and the applicant of its refusal to approve the
9 proposal, which shall include a statement of the specific grounds
10 for refusal, within sixty (60) days after the later of:

11 1. Receipt by the manufacturer or distributor of the notice of
12 the proposed sale, transfer, or assignment; or

13 2. Receipt by the manufacturer or distributor of the
14 information requested from the proposed transferee pursuant to
15 subsection A of this section if the manufacturer or distributor has
16 requested such information within fifteen (15) days of receipt of
17 written notice of the proposed sale, transfer, or assignment.

18 C. Failure of the manufacturer or distributor to send its
19 notice of refusal pursuant to subsection B of this section shall
20 mean that the application for the proposed sale, transfer, or
21 assignment is approved.

22 D. If the proposed sale, transfer or assignment is to an
23 existing owner's family member or other existing owner, then the
24 manufacturer or distributor's evaluation of such proposal is limited

1 to the written, reasonable and uniformly applied requirements of the
2 manufacturer or distributor relating to good moral character and
3 financial qualifications.

4 E. A ~~dealer~~ dealership or dealership owner receiving notice of
5 refusal of the sale, transfer, or assignment shall have the right to
6 file a protest with the Commission within thirty (30) days of
7 receipt of the refusal. ~~A dealer receiving notice that the sale,~~
8 ~~transfer or assignment is contingent upon the transferee meeting~~
9 ~~facility and/or performance standards shall have the right to file a~~
10 ~~protest with the Commission within thirty (30) days of receipt of~~
11 ~~the notice.~~ In the event a protest is filed, the manufacturer or
12 distributor shall have the burden of proof to establish the proposed
13 transferee or the proposed transferee's controlling executive
14 management is not of good moral character or fails to meet the
15 written reasonable and uniformly applied requirements of the
16 manufacturer or distributor relating to prospective franchisees or
17 that the facility requirements are not ~~reasonable based on the~~
18 ~~reasons set forth in subparagraph d of paragraph 9 of Section 565 of~~
19 ~~this title~~ different than those contained in the transferor's
20 franchise agreement.

21 SECTION 11. AMENDATORY 47 O.S. 2021, Section 572, is
22 amended to read as follows:

23 Section 572. Any action brought to recover any damages that may
24 be sustained by any motor vehicle dealer as a result of a violation

1 of this title may be brought in the county in which said dealer is
2 located ~~and in addition to the action for damages he shall be~~
3 ~~entitled to sue for and have injunctive relief against the~~
4 ~~threatened loss, damage or injury to his business or property~~
5 ~~because of any violation of Sections 565 through 566 and 579 of this~~
6 ~~title or the threatened cancellation, termination or failure to~~
7 ~~renew any franchise agreement between any factory and said dealer,~~
8 ~~and the court may grant such injunctive relief, including temporary~~
9 ~~restraining orders, as it deems just and proper, notwithstanding any~~
10 ~~other provisions of law, and in addition to any other remedy which~~
11 ~~may be afforded under any other statute of this state.~~

12 Notwithstanding the existence of any adequate remedy at law, a new
13 motor vehicle dealer is authorized to bring an action in the county
14 in which said new motor vehicle dealer is located for the grant,
15 upon a hearing and for cause shown, of a temporary or permanent
16 injunction, or both, restraining any person from acting as a
17 licensee under the terms of Sections 561 through 567, 572, 578.1,
18 579 and 579.1 of this title without being properly licensed
19 hereunder, or from violating or continuing to violate any of the
20 provisions of Sections 561 through 567, 572, 578.1, 579 and 579.1 of
21 this title, or from failing or refusing to comply with the
22 requirements of this law or any rule or regulation adopted
23 hereunder. Such injunction shall be issued without bond. A single
24 act in violation of the provisions of Sections 561 through 567, 572,

1 578.1, 579 and 579.1 of this title shall be sufficient to authorize
2 the issuance of an injunction. Upon a prima facie showing by the
3 person bringing the action that such a violation by the licensee has
4 occurred, the burden of proof shall then be upon the licensee to
5 prove that such violation or unfair practice did not occur.

6 SECTION 12. AMENDATORY 47 O.S. 2021, Section 578.1, is
7 amended to read as follows:

8 Section 578.1 A. Notwithstanding the terms of a franchise and
9 notwithstanding the terms of a waiver, if a factory intends or
10 proposes to enter into a franchise to establish an additional new
11 motor vehicle dealer or to relocate an existing new motor vehicle
12 dealer within or into a relevant market area in which the same line-
13 make of motor vehicle is currently represented, the factory shall
14 provide at least sixty (60) days advance written notice to the
15 Commission and to each new motor vehicle dealer of the same line-
16 make in the relevant market area, of the intention of the factory to
17 establish an additional new motor vehicle dealer or to relocate an
18 existing new motor vehicle dealer within or into the relevant market
19 area. For purposes of this section, the "relevant market area"
20 means the area within a radius of fifteen (15) miles ~~of~~ around the
21 site of the proposed new motor vehicle dealership measured from the
22 property boundary. The notice shall be sent by certified mail to
23 each party and shall include the following information:
24

1 1. The specific location at which the additional or relocated
2 motor vehicle dealer will be established;

3 2. The date on or after which the additional or relocated motor
4 vehicle intends to commence business at the proposed location;

5 3. The identity of all motor vehicle dealers who are franchised
6 to sell the same line-make vehicles as the proposed dealer and who
7 have licensed locations within the relevant market area;

8 4. The names and addresses of the person intended to be
9 franchised as the proposed additional or relocated motor vehicle
10 dealership, the principal investors in the proposed additional or
11 relocated motor vehicle dealership, and the proposed dealer operator
12 of the proposed additional or relocated motor vehicle dealership;
13 and

14 5. The specific grounds or reasons for the proposed
15 establishment of an additional motor vehicle dealer or relocation of
16 an existing dealer.

17 B. This section does not apply:

18 1. To the relocation of an existing new motor vehicle dealer
19 within the relevant market area of that dealer; provided, that the
20 relocation not be at a site within ten (10) miles of a licensed new
21 motor vehicle dealer for the same line-make of motor vehicle;

22 2. To a proposed additional new motor vehicle dealer which is
23 to be established at or within two (2) miles of a location at which
24 a former licensed new motor vehicle dealer for the same line-make of

1 new motor vehicle had ceased operating within the previous two (2)
2 years;

3 3. To the relocation of an existing new motor vehicle dealer
4 within two (2) miles of the existing site of the new motor vehicle
5 dealership; or

6 4. To the relocation of an existing new motor vehicle dealer if
7 the proposed site of the relocated new motor vehicle dealership is
8 farther away from all other new motor vehicle dealers of the same
9 line-make in that relevant market area.

10 C. Within thirty (30) days after receipt of the notice, or
11 within thirty (30) days after the end of an appeal procedure
12 provided by the factory, whichever is greater, a new motor vehicle
13 dealer so notified or entitled to notice may file a petition with
14 the Commission protesting the proposed establishment or relocation.
15 The petition shall contain a short statement setting forth the
16 reasons for the objection of the dealer to the proposed
17 establishment or relocation. Upon filing of a protest, the
18 Commission shall promptly notify the factory that a timely protest
19 has been filed and shall schedule a hearing, which shall be held
20 within one hundred twenty (120) days of the filing of a timely
21 protest. The factory shall not establish or relocate the new motor
22 vehicle dealer until the Commission has held a hearing and has
23 determined that there is good cause for permitting the proposed
24 establishment or relocation. When more than one protest is filed

1 against the establishment or relocation of the same dealer, the
2 Commission shall consolidate the hearings to expedite disposition of
3 the matter.

4 D. The burden of proof to establish that good cause exists for
5 permitting the proposed establishment of a new motor vehicle dealer
6 or relocating an existing new motor vehicle dealership shall be on
7 the applicant who seeks to establish a new motor vehicle dealership
8 or the relocation of an existing new motor vehicle dealership.

9 SECTION 13. AMENDATORY 47 O.S. 2021, Section 580.2, is
10 amended to read as follows:

11 Section 580.2 During the time a person is operating a motor
12 vehicle with the express or implied permission of ~~an authorized~~ a
13 new motor vehicle dealer, as defined in Section 562 of this title,
14 such person's motor vehicle liability policy shall have primary
15 coverage with the motor vehicle liability policy of the new motor
16 vehicle dealer having secondary coverage until the vehicle is
17 returned. As used herein, "motor vehicle liability policy" means
18 motor vehicle insurance against legal liability for the death,
19 injury or disability of any human being, or for damage to real or
20 personal property. The motor vehicle liability policy of any person
21 who has been loaned a vehicle by a new motor vehicle dealer pursuant
22 to the terms of this section shall provide primary coverage for any
23 death or injury of any human being or for any real or personal
24 property damage, including damage to the loaned vehicle, with the

1 motor vehicle insurance policy of the new motor vehicle dealer
2 having secondary coverage for any death or injury of any human being
3 or for any real or personal property damage, including damage to the
4 loaned vehicle. The change in financial responsibility shall be
5 evidenced by a release signed by the person operating the vehicle
6 with the express or implied permission of the new motor vehicle
7 dealer with the release to be returned to the person upon the return
8 of the motor vehicle to the new motor vehicle dealer. The motor
9 vehicle liability policy of such person shall meet the minimum
10 financial responsibility requirements found in Section 7-324 of this
11 title.

12 This section shall apply only to the loan of a motor vehicle by
13 ~~an authorized~~ a new motor vehicle dealer which loan occurs without
14 financial remuneration in the form of a fee or lease charge.

15 SECTION 14. This act shall become effective November 1, 2022.

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