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STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3002 By: Munson of the House

By: Munson of the House

and

Taylor of the Senate

AS INTRODUCED

An Act relating to professions and occupations; amending 2 O.S. 2021, Section 11-98, which relates to the Oklahoma Scrap Metal Dealers Act; modifying application for license; defining terms; amending 37A O.S. 2021, Section 2-146, which relates to the Oklahoma Alcoholic Beverage Control Act; modifying disqualifying factors for licensure; amending 47 O.S. 2021, Section 565, which relates to motor vehicle dealers; modifying application for license; defining terms; amending 47 O.S. 2021, Section 584, which relates to used motor vehicle dealers; modifying basis for denial, revocation or suspension of license; defining terms; amending 63 O.S. 2021, Section 1-1454, which relates to the Oklahoma Medical Micropigmentation Regulation Act; modifying qualifications for certification; defining terms; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2021, Section 11-98,
amended to read as follows:

1 Section 11-98. A. An applicant for a license to engage in
2 business as a scrap metal dealer shall provide all of the following
3 information on the license application:

4 1. If the applicant is an individual, the full name and place
5 of residence of the applicant;

6 2. If the applicant is a firm, corporation or other legal
7 entity, the full name, place of residence, and the position of the
8 individual filing the application on behalf of the entity;

9 3. The business address of the location where the scrap metal
10 dealer conducts business or will conduct business as a scrap metal
11 dealer;

12 4. Legal proof of ownership, lease agreement or contract for
13 the business location;

14 5. Proof of a dedicated telephone line for the business
15 location;

16 6. Proof of a general liability insurance policy for the
17 business location;

18 7. Proof of a current discharge permit issued pursuant to the
19 provisions of the Oklahoma Pollutant Discharge Elimination System
20 Act; and

21 8. Whether the person has been previously convicted of, or pled
22 guilty or nolo contendere to any felony ~~or to a misdemeanor~~
23 ~~involving moral turpitude or dishonesty; and~~ crime that
24

1 substantially relates to scrap metal dealing and poses a reasonable
2 threat to public safety

3 ~~9. Any other additional information that will sufficiently~~
4 ~~enable the Oklahoma Department of Agriculture, Food, and Forestry to~~
5 ~~determine if the scrap metal dealer is prohibited from being issued~~
6 ~~a license.~~

7 B. The Department may conduct any reasonable inquiry or
8 investigation relative to the determination of the fitness of the
9 applicant to be licensed or continue to be licensed including, but
10 not limited to, requiring a national criminal history record check
11 as provided in Section 150.9 of Title 74 of the Oklahoma Statutes.

12 C. The Department shall charge an application fee in the amount
13 of One Hundred Dollars (\$100.00) for processing an initial
14 application for a scrap metal dealer license. The Department shall
15 also charge an investigative fee of One Hundred Dollars (\$100.00) to
16 be used for the purpose of conducting an investigation of the
17 applicant. All fees shall be nonrefundable.

18 D. In addition to the application, each applicant shall submit
19 a full set of fingerprints and a photograph with each application
20 for an original license. The fingerprints shall be used for a
21 national criminal history record check as provided for in subsection
22 B of this section. The applicant shall be required to pay for
23 fingerprints, photographs and the national criminal history records
24 check required for licensure and renewals.

1 E. If the results of the investigation of the applicant show no
2 prohibition to granting a license, the Department shall issue the
3 scrap metal dealer license. The scrap metal dealer license shall be
4 valid for a period of one (1) year unless otherwise voluntarily
5 surrendered, suspended or revoked by the Department.

6 F. A scrap metal dealer license issued pursuant to the
7 provisions of this act is valid for the conduct of business as a
8 scrap metal dealer only at the location specified in the
9 application. A separate scrap metal dealer license shall be
10 required for each location specified in the application form and
11 each license shall designate the location to which it applies. The
12 business of the scrap metal dealer shall not be conducted in any
13 place other than that designated by the license. The scrap metal
14 dealer license shall not be transferable.

15 G. The Department shall deny the license when the applicant
16 fails to properly complete the application form or if it is
17 determined that the applicant is not eligible to receive a scrap
18 metal dealer license.

19 H. A scrap metal dealer license may be renewed any time within
20 sixty (60) days prior to the expiration date of the license. To
21 renew a scrap metal dealer license, the licensee must first obtain a
22 renewal form from the Department. The licensee must complete the
23 renewal form and submit a renewal fee in the amount of One Hundred
24 Dollars (\$100.00) to the Department. Upon receipt of the renewal

1 application and fee, the Department shall conduct a national
2 criminal history record check and investigate any other records or
3 information deemed by the Department to be relevant to the renewal
4 of the scrap metal dealer license. If the licensee appears not to
5 have any prohibition to renewing the scrap metal dealer license, the
6 Department shall issue the renewed license for a period of one (1)
7 year.

8 I. The Oklahoma Department of Agriculture, Food, and Forestry
9 shall promulgate rules, procedures and forms governing the
10 application and renewal procedures for scrap metal dealer licenses.

11 J. As used in this section:

12 1. "Substantially relates" means the nature of criminal conduct
13 for which the person was convicted has a direct bearing on the
14 fitness or ability to perform one or more of the duties or
15 responsibilities necessarily related to the occupation; and

16 2. "Poses a reasonable threat" means the nature of criminal
17 conduct for which the person was convicted involved an act or threat
18 of harm against another and has a bearing on the fitness or ability
19 to serve the public or work with others in the occupation.

20 SECTION 2. AMENDATORY 37A O.S. 2021, Section 2-146, is
21 amended to read as follows:

22 Section 2-146. A. The ABLE Commission shall refuse to issue a
23 wine and spirits wholesaler, beer distributor, retail spirits,
24 retail wine or retail beer license, either on an original

1 application or a renewal application, if it has reasonable grounds
2 to believe and finds any of the following to be true:

3 1. Except in the case of a beer distributor, that the applicant
4 is not a citizen of the United States or is not a qualified elector
5 in this state, or has not been a continuous resident of this state
6 for the five (5) years next preceding the application for the
7 license;

8 2. That the applicant is under twenty-one (21) years of age;

9 3. That the applicant or any partner, or spouse of the
10 applicant or any partner, has been convicted of a felony;

11 4. That the applicant or any partner, or spouse of the
12 applicant or any partner, has been convicted of a violation of any
13 state or federal law relating to alcoholic beverages, has forfeited
14 a bond while any charge of such violation was pending, nor may any
15 license be granted for any purpose under the Oklahoma Alcoholic
16 Beverage Control Act to an Oklahoma resident, who has held or whose
17 spouse has held a Federal Liquor Stamp in Oklahoma before the
18 adoption of Article XXVIII-A of the Oklahoma Constitution unless the
19 Liquor Stamp was granted for supplying alcoholic beverages to a
20 federal military installation, or was granted under the Oklahoma
21 Alcoholic Beverage Control Act;

22 5. That the applicant or any partner has, within twelve (12)
23 months next preceding the date of the application, violated any
24 provision of the Oklahoma Alcoholic Beverage Control Act or rule of

1 the ABLE Commission promulgated pursuant hereto. Provided, however,
2 that if the ABLE Commission has, during such twelve-month period,
3 suspended any license sought to be renewed, such renewal application
4 may be approved if the term of the suspension has been completed and
5 the applicant has complied with any special conditions imposed in
6 connection with the suspension;

7 6. That the applicant is ~~not of good moral character, or that~~
8 ~~the applicant is~~ in the habit of using alcoholic beverages to
9 excess, or is mentally incapacitated. ~~Provided, that the record in~~
10 ~~any municipal court showing a conviction of violation of any~~
11 ~~municipal ordinances or state statutes involving moral character or~~
12 ~~public nuisance obtained after passage and approval of the Oklahoma~~
13 ~~Alcoholic Beverage Control Act shall be received in evidence by the~~
14 ~~ABLE Commission;~~

15 7. That the applicant does not own or have a written lease for
16 the premises for which a license is sought;

17 8. That the applicant, within twelve (12) months next preceding
18 the date of application, has been the holder of a license revoked
19 for cause;

20 9. That the applicant is not the real party in interest, or
21 intends to carry on the business authorized by the license as the
22 agent of another;
23
24

1 10. That the applicant, in the case of an application for
2 renewal of any license, would not be eligible for such license on a
3 first application;

4 11. That the applicant is a person who appoints or is a law
5 enforcement official or is an employee of the ABLE Commission;

6 12. That the proposed location of the licensed premises would
7 violate a valid municipal nondiscriminatory zoning ordinance;

8 13. That, in the case of an application for a wine and spirits
9 wholesaler license or beer distributor license, any brewer or
10 manufacturer, including an officer, director or principal
11 stockholder thereof or any partner, has any financial interest in
12 the business to be conducted under the license, unless otherwise
13 permitted by law;

14 14. That the issuance of the license applied for would result
15 in a violation of any provision of the Oklahoma Alcoholic Beverage
16 Control Act;

17 15. That, in the case of an application for a wine and spirits
18 wholesaler or beer distributor license, the applicant or any
19 partner, or spouse of the applicant or any partner, is the holder or
20 partner of the holder of any other class of license issued under the
21 provisions of the Oklahoma Alcoholic Beverage Control Act, other
22 than an agent or employee license for employment by the applicant,
23 or a storage license, bonded warehouse license, carrier license or
24 private carrier license; provided, nothing shall prohibit a wine and

1 spirits wholesaler, who is otherwise qualified, from maintaining
2 beer distributor licenses in the state, nor a beer distributor, who
3 is otherwise qualified, from maintaining a wine and spirits
4 wholesaler license in the state;

5 16. That, in the case of an application for a retail spirits,
6 retail wine or retail beer license, the applicant or any partner is
7 the holder or partner of the holder, or employee of such holder of
8 any other class of license issued under the provisions of the
9 Oklahoma Alcoholic Beverage Control Act, other than a storage
10 license or an employee license for the proposed licensed premises of
11 the applicant, provided, nothing in this title shall prohibit an
12 applicant for a retail wine and/or retail beer license from
13 maintaining a separate mixed beverage, caterer, mixed
14 beverage/caterer combination license, and/or an ~~on-premise~~ on-
15 premises beer and wine license; or

16 17. That the applicant or any partner, spouse, employee or
17 other person affiliated with the applicant is not in compliance with
18 the tax laws of this state as required in Article XXVIII-A of the
19 Oklahoma Constitution.

20 B. The provisions of this section shall not operate to prohibit
21 the issuance of a beer distributor license to a corporation or
22 partnership or limited liability company.

23 SECTION 3. AMENDATORY 47 O.S. 2021, Section 565, is
24 amended to read as follows:

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

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

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

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

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

19 5. Being a new motor vehicle dealer who:

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

- 1 b. uses any false or misleading advertising in connection
2 with business as a new motor vehicle dealer,
3 c. has committed any unlawful act which resulted in the
4 revocation of any similar license in another state,
5 d. has failed or refused to perform any written agreement
6 with any retail buyer involving the sale of a motor
7 vehicle,
8 e. has been convicted of a felony crime ~~involving moral~~
9 ~~turpitude~~ that substantially relates to the occupation
10 of a motor vehicle dealer and poses a reasonable
11 threat to public safety,
12 f. has committed a fraudulent act in selling, purchasing
13 or otherwise dealing in new motor vehicles or has
14 misrepresented the terms and conditions of a sale,
15 purchase or contract for sale or purchase of a new
16 motor vehicle or any interest therein including an
17 option to purchase such vehicle,
18 g. has failed to meet or maintain the conditions and
19 requirements necessary to qualify for the issuance of
20 a license, or
21 h. completes any sale or transaction of an extended
22 service contract, extended maintenance plan, or
23 similar product using contract forms that do not
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1 conspicuously disclose the identity of the service
2 contract provider;

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

5 7. Being a new motor vehicle dealer who:

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

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

15 c. does not hold a franchise in effect with a
16 manufacturer or distributor of new or unused motor
17 vehicles for the sale of the same and is not
18 authorized by the manufacturer or distributor to
19 render predelivery preparation of such vehicles sold
20 to purchasers and to perform any authorized post-sale
21 work pursuant to the manufacturer's or distributor's
22 warranty,

23 d. employs a person without obtaining a certificate of
24 registration for the person, or utilizes the services

1 of used motor vehicle lots or dealers or other
2 unlicensed persons in connection with the sale of new
3 motor vehicles,

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

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

12 8. Being a factory that has:

13 a. either induced or attempted to induce by means of
14 coercion or intimidation, any new motor vehicle
15 dealer:

16 (1) to accept delivery of any motor vehicle or
17 vehicles, parts or accessories therefor, or any
18 other commodities including advertising material
19 which shall not have been ordered by the new
20 motor vehicle dealer,

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

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

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

3 9. Being a factory that:

4 a. has attempted to coerce or has coerced any new motor
5 vehicle dealer to enter into any agreement or to
6 cancel any agreement, or fails to act in good faith
7 and in a fair, equitable and nondiscriminatory manner;
8 or has directly or indirectly coerced, intimidated,
9 threatened or restrained any motor vehicle dealer; or
10 has acted dishonestly, or has failed to act in
11 accordance with the reasonable standards of fair
12 dealing,

13 b. has failed to compensate its dealers for the work and
14 services they are required to perform in connection
15 with the dealer's delivery and preparation obligations
16 according to the agreements on file with the
17 Commission which must be found by the Commission to be
18 reasonable, or fail to adequately and fairly
19 compensate its dealers for labor, parts and other
20 expenses incurred by such dealer to perform under and
21 comply with manufacturer's warranty agreements.
22 Adequate and fair compensation for parts shall be
23 established by the dealer submitting to the
24 manufacturer or distributor one hundred sequential

1 nonwarranty customer-paid service repair orders which
2 contain warranty-like parts, or ninety (90)
3 consecutive days of nonwarranty customer-paid service
4 repair orders which contain warranty-like parts,
5 whichever is less, covering repairs made no more than
6 one hundred eighty (180) days before the submission
7 and declaring the average percentage markup. Adequate
8 and fair compensation for labor shall be established
9 by the dealer submitting to the manufacturer or
10 distributor one hundred sequential customer-paid
11 service repair orders which contain labor charges, or
12 ninety (90) consecutive days of customer-paid service
13 repair orders which contain labor charges, whichever
14 is less. When submitting repair orders to calculate a
15 labor rate, a dealer need not include repair orders
16 for routine maintenance. A manufacturer or
17 distributor may, not later than thirty (30) days after
18 submission, rebut that declared rate in writing by
19 reasonably substantiating that the rate is inaccurate
20 or unreasonable in light of the practices of all other
21 franchised motor vehicle dealers in an economically
22 similar part of the state offering the same line-make
23 vehicles. The retail rate shall go into effect thirty
24 (30) days following the approval by the manufacturer,

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

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

1 vehicle dealer back subsequent to the payment of the
2 claim unless the factory can show that the claim was
3 false or fraudulent or that the new motor vehicle
4 dealer failed to reasonably substantiate the claim by
5 the written reasonable procedures of the factory. The
6 factory shall provide written notice to a dealer of a
7 proposed charge-back that is the result of an audit
8 along with the specific audit results and proposed
9 charge-back amount. A dealer that receives notice of
10 a proposed charge-back pursuant to a factory's audit
11 has the right to file a protest with the Commission
12 within thirty (30) days after receipt of the notice of
13 the charge-back or audit results, whichever is later.
14 The factory is prohibited from implementing the
15 charge-back or debiting the dealer's account until
16 either the time frame for filing a protest has passed
17 or a final adjudication is rendered by the Commission,
18 whichever is later, unless the dealer has agreed to
19 the charge-back or charge-backs,

- 20 c. unreasonably fails or refuses to offer to its same
21 line-make franchised dealers all models manufactured
22 for that line-make, or unreasonably requires a dealer
23 to pay any extra fee, purchase unreasonable
24 advertising displays or other materials, or remodel,

1 renovate, or recondition the dealer's existing
2 facilities as a prerequisite to receiving a model or
3 series of vehicles. The failure to deliver any such
4 new motor vehicle shall not be considered a violation
5 of the section if the failure is not arbitrary or is
6 due to lack of manufacturing capacity or to a strike
7 or labor difficulty, a shortage of materials, a
8 freight embargo or other cause over which the
9 manufacturer has no control. However, this
10 subparagraph shall not apply to recreational vehicles
11 or limited production model vehicles,

- 12 d. except as necessary to comply with a health or safety
13 law, or to comply with a technology requirement which
14 is necessary to sell or service a motor vehicle that
15 the franchised motor vehicle dealer is authorized or
16 licensed by the franchisor to sell or service,
17 requires a new motor vehicle dealer to construct a new
18 facility or substantially renovate the new motor
19 vehicle dealer's existing facility unless the facility
20 construction or renovation is justified by the
21 economic conditions existing at the time, as well as
22 the reasonably foreseeable projections, in the
23 automotive industry. However, this subparagraph shall
24 not apply if the factory provides money, credit,

1 allowance, reimbursement, or additional vehicle
2 allocation to a dealer to compensate the dealer for
3 the cost of, or a portion of the cost of, the facility
4 construction or renovation,

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

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

1 franchises that operated from the location that are
2 the subject of the site-control agreement are
3 terminated by the factory as part of the
4 discontinuance of a product line, or

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

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

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

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

- 20 (1) owns any ownership interest or has any financial
21 interest in a new motor vehicle dealer or any
22 person who sells products or services to the
23 public,

- 1 (2) operates or controls a new motor vehicle dealer,
2 or
3 (3) acts in the capacity of a new motor vehicle
4 dealer.

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

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

1 factory of good cause, the Oklahoma Motor Vehicle
2 Commission may extend the time limit set forth
3 above; extensions may be granted for periods not
4 to exceed twelve (12) months.

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

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

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

20 (b) all of the franchise agreements of the
21 manufacturer confer rights on the dealer of
22 the line-make to develop and operate, within
23 a defined geographic territory or area, as
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1 many dealership facilities as the dealer and
2 manufacturer shall agree are appropriate,
3 (c) at the time the manufacturer first acquires
4 an ownership interest or assumes operation,
5 the distance between any dealership thus
6 owned or operated and the nearest
7 unaffiliated motor vehicle dealership
8 trading in the same line-make is not less
9 than seventy (70) miles,
10 (d) during any period in which the manufacturer
11 has such an ownership interest, the
12 manufacturer has no more than three
13 franchise agreements with new motor vehicle
14 dealers licensed by the Oklahoma Motor
15 Vehicle Commission to do business within the
16 state, and
17 (e) prior to January 1, 2000, the factory shall
18 have furnished or made available to
19 prospective motor vehicle dealers an
20 offering-circular in accordance with the
21 Trade Regulation Rule on Franchising of the
22 Federal Trade Commission, and any guidelines
23 and exemptions issued thereunder, which
24 disclose the possibility that the factory

1 may from time to time seek to own or
2 acquire, directly or indirectly, ownership
3 interests in retail dealerships;

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

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

- 23 a. the facility and the proposed new location satisfies
24 or meets the written reasonable guidelines of the

1 factory. Reasonable guidelines do not include site
2 control unless agreed to as set forth in subparagraphs
3 e and f of paragraph 9 of this subsection,

4 b. the proposed new location is within the area of
5 responsibility of the new motor vehicle dealer
6 pursuant to Section 578.1 of this title, and

7 c. the factory has sixty (60) days from receipt of the
8 new motor vehicle dealer's relocation request to
9 approve or deny the request. The failure to approve
10 or deny the request within the sixty-day time frame
11 shall constitute approval of the request;

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

20 18. Being a factory that increases prices of new motor vehicles
21 which the new motor vehicle dealer had ordered for retail consumers
22 and notified the factory prior to the dealer's receipt of the
23 written official price increase notification. A sales contract
24 signed by a retail consumer accompanied with proof of order

1 submission to the factory shall constitute evidence of each such
2 order, provided that the vehicle is in fact delivered to the
3 customer. Price differences applicable to new models or series
4 motor vehicles at the time of the introduction of new models or
5 series shall not be considered a price increase for purposes of this
6 paragraph. Price changes caused by any of the following shall not
7 be subject to the provisions of this paragraph:

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

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

20 20. Being a factory that denies any new motor vehicle dealer
21 the right of free association with any other new motor vehicle
22 dealer for any lawful purpose, unless otherwise permitted by this
23 chapter; or
24

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

6 a. by an act or statement from the factory that will in
7 any manner adversely impact the dealer,

8 b. by measuring the dealer's performance under the
9 franchise based on the sale of extended service
10 contracts, extended maintenance plans or similar
11 products offered, endorsed or sponsored by the
12 manufacturer or distributor.

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

21 1. To exercise its right of first refusal, the factory must
22 notify the dealer in writing within sixty (60) days of receipt of
23 the completed proposal for the proposed sale transfer;
24

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

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

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

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

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

8 a. any motor vehicle sold by that person is limited to

9 used motor vehicles that have been previously used

10 exclusively and regularly by that person in the

11 conduct of business and used motor vehicles traded in

12 on motor vehicles sold by that person,

13 b. warranty repairs performed by that person on motor

14 vehicles are limited to those motor vehicles that it

15 owns, previously owned or takes in trade, and

16 c. motor vehicle financing provided by that person to

17 retail consumers for motor vehicles is limited to used

18 vehicles sold by that person in the conduct of

19 business; or

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

22 D. As used in this section:

23 1. "Substantially relates" means the nature of criminal conduct
24 for which the person was convicted has a direct bearing on the

1 fitness or ability to perform one or more of the duties or
2 responsibilities necessarily related to the occupation; and

3 2. "Poses a reasonable threat" means the nature of criminal
4 conduct for which the person was convicted involved an act or threat
5 of harm against another and has a bearing on the fitness or ability
6 to serve the public or work with others in the occupation.

7 SECTION 4. AMENDATORY 47 O.S. 2021, Section 584, is
8 amended to read as follows:

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

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

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

21 3. For any willful failure to comply with any provision of
22 Section 581 et seq. of this title or with any rule promulgated by
23 the Commission under authority vested in it by Sections 581 through
24 588 of this title;

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

3 5. Continued or flagrant violation of any of the rules of the
4 Commission;

5 6. Being a used motor vehicle dealer, a used motor vehicle
6 salesperson, a wholesale used motor vehicle dealer, or a
7 manufactured home dealer, a restricted manufactured home park
8 dealer, a manufactured home installer, a manufactured home
9 salesperson or a manufactured home manufacturer who:

- 10 a. resorts to or uses any false or misleading advertising
11 in connection with business as a used motor vehicle
12 dealer, wholesale used motor vehicle dealer or a
13 restricted manufactured home park dealer or
14 manufactured home dealer, installer or manufacturer,
15 b. has committed any unlawful act which resulted in the
16 revocation of any similar license in another state,
17 c. has been convicted of a felony crime ~~involving moral~~
18 ~~turpitude~~ that substantially relates to the occupation
19 of a used motor vehicle dealer, a wholesale used motor
20 vehicle dealer, a manufactured home dealer, a
21 restricted manufactured home park dealer, a
22 manufactured home installer or a manufactured home
23 manufacturer and poses a reasonable threat to public
24 safety,

- 1 d. has committed a fraudulent act in selling, purchasing
2 or otherwise dealing in motor vehicles or manufactured
3 homes or has misrepresented the terms and conditions
4 of a sale, purchase or contract for sale or purchase
5 of a motor vehicle or manufactured home or any
6 interest therein including an option to purchase such
7 motor vehicles or manufactured homes,
- 8 e. has engaged in business under a past or present
9 license issued pursuant to Sections 581 through 588 of
10 this title, in such a manner as to cause injury to the
11 public or to those with whom the licensee is dealing,
- 12 f. has failed to meet or maintain the conditions and
13 requirements necessary to qualify for the issuance of
14 a license,
- 15 g. has failed or refused to furnish and keep in force any
16 bond required under Sections 581 through 588 of this
17 title,
- 18 h. has installed or attempted to install a manufactured
19 home in an unworkmanlike manner, or
- 20 i. employs a person in connection with the sale of
21 manufactured homes without first obtaining a
22 certificate of registration for the person;

23 7. Being a used motor vehicle dealer who:

- 24 a. does not have an established place of business,

- b. employs a person in connection with the sale of used vehicles without first obtaining a certificate of registration for the person,
- c. fails or refuses to furnish or keep in force single limit liability insurance on any vehicle offered for sale and otherwise required under the financial responsibility laws of this state, or
- d. is not operating from the address shown on the license if this change has not been reported to the Commission; or

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

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

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

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

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

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

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

1 d. maintains a place of business which is separate and
2 apart from any other dealer's location.

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

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

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

12 D. The Commission shall deny an application for a license, or
13 revoke or suspend a license after it has been granted, if a
14 manufactured home manufacturer violates or fails to comply with any
15 applicable rule as promulgated by the Commission concerning
16 manufactured home manufacturers.

17 E. The Commission shall deny an application for a license by a
18 motor vehicle manufacturer or factory if the application is for the
19 purpose of selling used motor vehicles to any retail consumer in the
20 state, other than through its retail franchised dealers, or acting
21 as a broker between a seller and a retail buyer. This subsection
22 does not prohibit a manufacturer from selling used motor vehicles
23 where the retail customer is a nonprofit organization or a federal,
24 state, or local government or agency. This subsection does not

1 prohibit a manufacturer from providing information to a consumer for
2 the purpose of marketing or facilitating the sale of used motor
3 vehicles or from establishing a program to sell or offer to sell
4 used motor vehicles through the manufacturer's retail franchised
5 dealers as provided for in Sections 561 through 580.2 of this title.
6 This subsection shall not prevent a factory from obtaining a
7 wholesale used motor vehicle dealer's license or the factory's
8 financing subsidiary from obtaining a wholesale used motor vehicle
9 dealer's license.

10 F. If the Commission denies issuance of a license the
11 Commission shall provide the grounds for the action to the applicant
12 in writing and allow the applicant sixty (60) days to resolve any
13 issues that are the grounds for the action.

14 G. Each of the aforementioned grounds for suspension,
15 revocation, or denial of issuance or renewal of license shall also
16 constitute a violation of Sections 581 through 588 of this title,
17 unless the person involved has been tried and acquitted of the
18 offense constituting such grounds.

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

24 H. As used in this section:

1 1. "Substantially relates" means the nature of criminal conduct
2 for which the person was convicted has a direct bearing on the
3 fitness or ability to perform one or more of the duties or
4 responsibilities necessarily related to the occupation; and

5 2. "Poses a reasonable threat" means the nature of criminal
6 conduct for which the person was convicted involved an act or threat
7 of harm against another and has a bearing on the fitness or ability
8 to serve the public or work with others in the occupation.

9 SECTION 5. AMENDATORY 63 O.S. 2011, Section 1-1454, is
10 amended to read as follows:

11 Section 1-1454. A. On and after May 1, 2002, except for a
12 physician, any person intending to perform medical micropigmentation
13 in this state shall first be certified by the State Department of
14 Health.

15 B. The State Commissioner of Health shall not issue a
16 certificate or renew a certificate to perform medical
17 micropigmentation to a person who has:

18 1. Been convicted of or pled guilty or nolo contendere to a
19 felony ~~or a misdemeanor involving moral turpitude in any federal,~~
20 ~~state, territory, or District of Columbia court~~ crime that
21 substantially relates to the practice of medical micropigmentation
22 and poses a reasonable threat to public safety;

23 2. Been determined to have engaged in unprofessional conduct as
24 defined by the rules promulgated by the State Board of Health;

1 3. Made a materially false or fraudulent statement in an
2 application or other document relating to certification pursuant to
3 the provisions of the Oklahoma Medical Micropigmentation Regulation
4 Act; or

5 4. Had a health-related license, certificate, or permit
6 suspended, revoked or not renewed or had any other disciplinary
7 action taken, or had an application for a health-related license,
8 certificate, or permit refused by a federal, state, territory, or
9 District of Columbia regulatory authority for intentionally
10 falsifying information.

11 C. In order to qualify for certification, an applicant shall:

12 1. Have received a high school diploma or its equivalent;

13 2. Be at least twenty-one (21) years of age; and

14 3. Have submitted a completed application to the Department in
15 such form as required by the Department which shall include a
16 notarized copy of:

17 a. the certificate of birth of the applicant,

18 b. the applicant's driver license or other similar form
19 of identification,

20 c. other professional credentials, if applicable, and

21 d. proof, in such form as the Department determines
22 appropriate, of the satisfactory completion of a
23 program of training and testing approved by the
24

1 Department as specified in Section ~~6~~ 1-1455 of this
2 ~~act~~ title.

3 D. Upon meeting the requirements of the Oklahoma Medical
4 Micropigmentation Regulation Act and rules promulgated pursuant
5 thereto, the State Commissioner of Health shall issue a certificate
6 to perform medical micropigmentation to the applicant.

7 E. As used in this section:

8 1. "Substantially relates" means the nature of criminal conduct
9 for which the person was convicted has a direct bearing on the
10 fitness or ability to perform one or more of the duties or
11 responsibilities necessarily related to the occupation; and

12 2. "Poses a reasonable threat" means the nature of criminal
13 conduct for which the person was convicted involved an act or threat
14 of harm against another and has a bearing on the fitness or ability
15 to serve the public or work with others in the occupation.

16 SECTION 6. This act shall become effective November 1, 2022.

17
18 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
19 02/16/2022 - DO PASS, As Coauthored.
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