

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3002

By: Munson

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, is amended to read as follows:

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

- 1 1. If the applicant is an individual, the full name and place
2 of residence of the applicant;
- 3 2. If the applicant is a firm, corporation or other legal
4 entity, the full name, place of residence, and the position of the
5 individual filing the application on behalf of the entity;
- 6 3. The business address of the location where the scrap metal
7 dealer conducts business or will conduct business as a scrap metal
8 dealer;
- 9 4. Legal proof of ownership, lease agreement or contract for
10 the business location;
- 11 5. Proof of a dedicated telephone line for the business
12 location;
- 13 6. Proof of a general liability insurance policy for the
14 business location;
- 15 7. Proof of a current discharge permit issued pursuant to the
16 provisions of the Oklahoma Pollutant Discharge Elimination System
17 Act; and
- 18 8. Whether the person has been previously convicted of, or pled
19 guilty or nolo contendere to any felony ~~or to a misdemeanor~~
20 ~~involving moral turpitude or dishonesty; and~~ crime that
21 substantially relates to scrap metal dealing and poses a reasonable
22 threat to public safety
- 23 ~~9. Any other additional information that will sufficiently~~
24 ~~enable the Oklahoma Department of Agriculture, Food, and Forestry to~~

1 ~~determine if the scrap metal dealer is prohibited from being issued~~
2 ~~a license.~~

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

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

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

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

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

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

16 H. A scrap metal dealer license may be renewed any time within
17 sixty (60) days prior to the expiration date of the license. To
18 renew a scrap metal dealer license, the licensee must first obtain a
19 renewal form from the Department. The licensee must complete the
20 renewal form and submit a renewal fee in the amount of One Hundred
21 Dollars (\$100.00) to the Department. Upon receipt of the renewal
22 application and fee, the Department shall conduct a national
23 criminal history record check and investigate any other records or
24 information deemed by the Department to be relevant to the renewal

1 of the scrap metal dealer license. If the licensee appears not to
2 have any prohibition to renewing the scrap metal dealer license, the
3 Department shall issue the renewed license for a period of one (1)
4 year.

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

8 J. As used in this section:

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

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

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

19 Section 2-146. A. The ABLE Commission shall refuse to issue a
20 wine and spirits wholesaler, beer distributor, retail spirits,
21 retail wine or retail beer license, either on an original
22 application or a renewal application, if it has reasonable grounds
23 to believe and finds any of the following to be true:
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1 1. Except in the case of a beer distributor, that the applicant
2 is not a citizen of the United States or is not a qualified elector
3 in this state, or has not been a continuous resident of this state
4 for the five (5) years next preceding the application for the
5 license;

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

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

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

20 5. That the applicant or any partner has, within twelve (12)
21 months next preceding the date of the application, violated any
22 provision of the Oklahoma Alcoholic Beverage Control Act or rule of
23 the ABLE Commission promulgated pursuant hereto. Provided, however,
24 that if the ABLE Commission has, during such twelve-month period,

1 suspended any license sought to be renewed, such renewal application
2 may be approved if the term of the suspension has been completed and
3 the applicant has complied with any special conditions imposed in
4 connection with the suspension;

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

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

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

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

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

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

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

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

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

14 15. That, in the case of an application for a wine and spirits
15 wholesaler or beer distributor license, the applicant or any
16 partner, or spouse of the applicant or any partner, is the holder or
17 partner of the holder of any other class of license issued under the
18 provisions of the Oklahoma Alcoholic Beverage Control Act, other
19 than an agent or employee license for employment by the applicant,
20 or a storage license, bonded warehouse license, carrier license or
21 private carrier license; provided, nothing shall prohibit a wine and
22 spirits wholesaler, who is otherwise qualified, from maintaining
23 beer distributor licenses in the state, nor a beer distributor, who

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1 is otherwise qualified, from maintaining a wine and spirits
2 wholesaler license in the state;

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

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

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

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

23 Section 565. A. The Oklahoma Motor Vehicle Commission may deny
24 an application for a license, or revoke or suspend a license or

1 impose a fine not to exceed Ten Thousand Dollars (\$10,000.00)
2 against a manufacturer or distributor or a fine not to exceed One
3 Thousand Dollars (\$1,000.00) against a dealer per occurrence that
4 any provision of Sections 561 through 567, 572, 578.1, 579 and 579.1
5 of this title is violated or for any of the following reasons:

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

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

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

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

17 5. Being a new motor vehicle dealer who:

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

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

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

3 7. Being a new motor vehicle dealer who:

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

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

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

21 d. employs a person without obtaining a certificate of
22 registration for the person, or utilizes the services
23 of used motor vehicle lots or dealers or other
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- 1 unlicensed persons in connection with the sale of new
2 motor vehicles,
- 3 e. does not properly service a new motor vehicle before
4 delivery of same to the original purchaser thereof, or
- 5 f. fails to order and stock a reasonable number of new
6 motor vehicles necessary to meet customer demand for
7 each of the new motor vehicles included in the new
8 motor vehicle dealer's franchise agreement, unless the
9 new motor vehicles are not readily available from the
10 manufacturer or distributor due to limited production;

11 8. Being a factory that has:

- 12 a. either induced or attempted to induce by means of
13 coercion or intimidation, any new motor vehicle
14 dealer:
- 15 (1) to accept delivery of any motor vehicle or
16 vehicles, parts or accessories therefor, or any
17 other commodities including advertising material
18 which shall not have been ordered by the new
19 motor vehicle dealer,
- 20 (2) to order or accept delivery of any motor vehicle
21 with special features, appliances, accessories or
22 equipment not included in the list price of the
23 motor vehicles as publicly advertised by the
24 manufacturer thereof, or

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

24 9. Being a factory that:

- 1 a. has attempted to coerce or has coerced any new motor
2 vehicle dealer to enter into any agreement or to
3 cancel any agreement, or fails to act in good faith
4 and in a fair, equitable and nondiscriminatory manner;
5 or has directly or indirectly coerced, intimidated,
6 threatened or restrained any motor vehicle dealer; or
7 has acted dishonestly, or has failed to act in
8 accordance with the reasonable standards of fair
9 dealing,
- 10 b. has failed to compensate its dealers for the work and
11 services they are required to perform in connection
12 with the dealer's delivery and preparation obligations
13 according to the agreements on file with the
14 Commission which must be found by the Commission to be
15 reasonable, or fail to adequately and fairly
16 compensate its dealers for labor, parts and other
17 expenses incurred by such dealer to perform under and
18 comply with manufacturer's warranty agreements.
19 Adequate and fair compensation for parts shall be
20 established by the dealer submitting to the
21 manufacturer or distributor one hundred sequential
22 nonwarranty customer-paid service repair orders which
23 contain warranty-like parts, or ninety (90)
24 consecutive days of nonwarranty customer-paid service

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

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

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

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

- 17 c. unreasonably fails or refuses to offer to its same
18 line-make franchised dealers all models manufactured
19 for that line-make, or unreasonably requires a dealer
20 to pay any extra fee, purchase unreasonable
21 advertising displays or other materials, or remodel,
22 renovate, or recondition the dealer's existing
23 facilities as a prerequisite to receiving a model or
24 series of vehicles. The failure to deliver any such

1 new motor vehicle shall not be considered a violation
2 of the section if the failure is not arbitrary or is
3 due to lack of manufacturing capacity or to a strike
4 or labor difficulty, a shortage of materials, a
5 freight embargo or other cause over which the
6 manufacturer has no control. However, this
7 subparagraph shall not apply to recreational vehicles
8 or limited production model vehicles,

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

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

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

20 Notwithstanding the foregoing or the terms of any
21 site-control agreement, a site-control agreement
22 automatically extinguishes if all of the factory's
23 franchises that operated from the location that are
24 the subject of the site-control agreement are

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

22 10. Being a factory that establishes a system of motor vehicle
23 allocation or distribution which is unfair, inequitable or
24 unreasonably discriminatory. Upon the request of any dealer

1 franchised by it, a factory shall disclose in writing to the dealer
2 the basis upon which new motor vehicles are allocated, scheduled and
3 delivered among the dealers of the same line-make for that factory;

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 or from establishing a
14 program to sell or offer to sell new motor vehicles through
15 participating dealers;

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

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

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

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

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

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

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

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

22 (c) at the time the manufacturer first acquires
23 an ownership interest or assumes operation,
24 the distance between any dealership thus

1 owned or operated and the nearest
2 unaffiliated motor vehicle dealership
3 trading in the same line-make is not less
4 than seventy (70) miles,

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

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

23 13. Being a factory which directly or indirectly makes
24 available for public disclosure any proprietary information provided

1 to the factory by a new motor vehicle dealer, other than in
2 composite form to dealers in the same line-make or in response to a
3 subpoena or order of the Commission or a court. Proprietary
4 information includes, but is not limited to, information:

5 a. derived from monthly financial statements provided to
6 the factory, and

7 b. regarding any aspect of the profitability of a
8 particular new motor vehicle dealer;

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

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

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

18 a. the facility and the proposed new location satisfies
19 or meets the written reasonable guidelines of the
20 factory. Reasonable guidelines do not include site
21 control unless agreed to as set forth in subparagraphs
22 e and f of paragraph 9 of this subsection,
23
24

- b. the proposed new location is within the area of responsibility of the new motor vehicle dealer pursuant to Section 578.1 of this title, and
- c. the factory has sixty (60) days from receipt of the new motor vehicle dealer's relocation request to approve or deny the request. The failure to approve or deny the request within the sixty-day time frame shall constitute approval of the request;

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

18. Being a factory that increases prices of new motor vehicles which the new motor vehicle dealer had ordered for retail consumers and notified the factory prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a retail consumer accompanied with proof of order submission to the factory shall constitute evidence of each such order, provided that the vehicle is in fact delivered to the customer. Price differences applicable to new models or series

1 motor vehicles at the time of the introduction of new models or
2 series shall not be considered a price increase for purposes of this
3 paragraph. Price changes caused by any of the following shall not
4 be subject to the provisions of this paragraph:

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

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

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

21 21. Being a factory that requires a new motor vehicle dealer to
22 sell, offer to sell or sell exclusively an extended service
23 contract, extended maintenance plan or similar product, such as gap
24

1 products offered, endorsed or sponsored by the factory by the
2 following means:

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

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

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

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

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

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

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

21 1. Business activities, including without limitation the
22 dealings with motor vehicle manufacturers and the representatives
23 and affiliates of motor vehicle manufacturers, of any person that is
24 primarily engaged in the business of short-term, not to exceed

1 twelve (12) months, rental of motor vehicles and industrial and
2 construction equipment and activities incidental to that business,
3 provided that:

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

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

18 D. As used in this section:

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

23 2. "Poses a reasonable threat" means the nature of criminal
24 conduct for which the person was convicted involved an act or threat

1 of harm against another and has a bearing on the fitness or ability
2 to serve the public or work with others in the occupation.

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

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

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

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

17 3. For any willful failure to comply with any provision of
18 Section 581 et seq. of this title or with any rule promulgated by
19 the Commission under authority vested in it by Sections 581 through
20 588 of this title;

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

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

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

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

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

19 7. Being a used motor vehicle dealer who:

- 20 a. does not have an established place of business,
- 21 b. employs a person in connection with the sale of used
22 vehicles without first obtaining a certificate of
23 registration for the person,
- 24

1 c. fails or refuses to furnish or keep in force single
2 limit liability insurance on any vehicle offered for
3 sale and otherwise required under the financial
4 responsibility laws of this state, or

5 d. is not operating from the address shown on the license
6 if this change has not been reported to the
7 Commission; or

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

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

11 b. fails or refuses to furnish or keep in force garage
12 liability and completed operations insurance, or

13 c. is not operating from the address shown on the license
14 if this change has not been reported to the
15 Commission.

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

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

22 b. an office for conducting business where the books,
23 records, and files are kept, with access to a restroom
24 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
- d. maintains a place of business which is separate and apart from any other dealer's location.

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

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

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

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

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

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

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

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

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

22 H. 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 5. AMENDATORY 63 O.S. 2011, Section 1-1454, is
8 amended to read as follows:

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

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

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

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

23 3. Made a materially false or fraudulent statement in an
24 application or other document relating to certification pursuant to

1 the provisions of the Oklahoma Medical Micropigmentation Regulation
2 Act; or

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

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

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

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

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

15 a. the certificate of birth of the applicant,

16 b. the applicant's driver license or other similar form
17 of identification,

18 c. other professional credentials, if applicable, and

19 d. proof, in such form as the Department determines
20 appropriate, of the satisfactory completion of a
21 program of training and testing approved by the
22 Department as specified in Section ~~6~~ 1-1455 of this
23 ~~act~~ title.
24

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

5 E. As used in this section:

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

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

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

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