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ENGROSSED HOUSE
BILL NO. 2158

and

Gollihare of the Senate

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

SECTION 1. AMENDATORY 47 O.S. 2021, Section 562, as last amended by Section 2, Chapter 240, O.S.L. 2024 (47 O.S. Supp. 2024, Section 562), is amended to read as follows:

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

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

- a. recreational vehicles, as defined in the Recreational Vehicle Franchise Act, or
- b. powersport vehicles;

2. "New motor vehicle dealer" means any person, firm, association, corporation, or trust not excluded by this paragraph who sells, offers for sale, advertises to sell, receives deposits for vehicles, leases, or displays new motor vehicles and holds a bona fide contract or franchise in effect with a manufacturer or distributor authorized by the manufacturer to make predelivery preparation of such vehicles sold to purchasers and to perform post-sale work pursuant to the manufacturer's or distributor's warranty. As used herein, "authorized predelivery preparation" means the rendition by the dealer of services and safety adjustments on each

1 new motor vehicle in accordance with the procedure and safety
2 standards required by the manufacturer of the vehicle to be made
3 before its delivery to the purchaser. "Performance of authorized
4 post-sale work pursuant to the warranty", as used herein, means the
5 rendition of services which are required by the terms of the
6 warranty that stands extended to the vehicle at the time of its sale
7 and are to be made in accordance with the safety standards
8 prescribed by the manufacturer. The term includes premises or
9 facilities at which a person engages only in the repair of motor
10 vehicles if repairs are performed pursuant to the terms of a
11 franchise and motor vehicle manufacturer's warranty. For the
12 purpose of Sections 561 through 567, 572, 578.1, 579, and 579.1 of
13 this title, the terms new motor vehicle dealer and "new motor
14 vehicle dealership" shall be synonymous. The term new motor vehicle
15 dealer does not include:

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

1 d. a powersports vehicle dealer;

2 3. "Motor vehicle salesperson" means any person, resident or
3 nonresident, who, for gain or compensation of any kind, either
4 directly or indirectly, regularly or occasionally, by any form of
5 agreement or arrangement, sells or negotiates for the sale, lease,
6 or conveyance or arranges the financing of any new motor vehicle or
7 powersports vehicle as an employee for any new motor vehicle dealer
8 or powersports dealer to any one or more third parties;

9 4. "Commission" means the Oklahoma New Motor Vehicle
10 Commission;

11 5. "Manufacturer" means any person, firm, association,
12 corporation, ~~or~~ partnership, trust, joint venture, or common entity
13 thereof, resident or nonresident, that manufactures or assembles new
14 and unused motor vehicles or new and unused powersport vehicles or
15 that engages in the fabrication or assembly of motorized vehicles of
16 a type required to be registered in this state;

17 6. "Distributor" means any person, firm, association,
18 corporation, ~~or~~ partnership, trust, joint venture, or common entity
19 thereof, resident or nonresident, that, being authorized by the
20 original manufacturer, in whole or in part sells or distributes new
21 and unused motor vehicles to new motor vehicle dealers or powersport
22 dealers, or that maintains distributor representatives;

23 7. "Factory branch" means any branch office maintained by a
24 person, firm, association, corporation, ~~or~~ partnership, trust, joint

1 venture, or common entity thereof that manufactures or assembles
2 motor vehicles or powersport vehicles for the sale of motor vehicles
3 or powersport vehicles to distributors, or for the sale of motor
4 vehicles to new motor vehicle dealers, or for the sale of powersport
5 vehicles to new powersport vehicle dealers, or for directing or
6 supervising, in whole or in part, its representatives;

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

10 9. "Factory representative" means any officer or agent engaged
11 as a representative of a manufacturer of motor vehicles or
12 powersport vehicles or by a factory branch, for the purpose of
13 making or promoting the sale of its motor vehicles or powersport
14 vehicles, or for supervising or contacting its dealers or
15 prospective dealers;

16 10. "Distributor representative" means any person, firm,
17 association, corporation, ~~or~~ partnership, trust, joint venture, or
18 common entity thereof, and each officer and employee thereof engaged
19 as a representative of a distributor or distributor branch of motor
20 vehicles or powersport vehicles, for the purpose of making or
21 promoting the sale of its motor vehicles or powersport vehicles, or
22 for supervising or contacting its dealers or prospective dealers;

23 11. "Franchise" means any contract or agreement between a new
24 motor vehicle dealer or a powersports vehicle dealer and a

1 manufacturer of a new motor vehicle or powersports vehicle or its
2 distributor or factory branch by which the new motor vehicle dealer
3 or new powersports vehicle dealer is authorized to engage in the
4 activities of a new motor vehicle dealer or new powersports vehicle
5 dealer as defined by this section;

6 12. "New or unused motor vehicle" means a vehicle which is in
7 the possession of the manufacturer or distributor or has been sold
8 only to the holder of a valid franchise granted by the manufacturer
9 or distributor for the sale of that make of new vehicle so long as
10 the manufacturer's statement of origin has not been assigned to
11 anyone other than a licensed franchised new motor vehicle dealer of
12 the same line-make;

13 13. "Area of responsibility" means the geographical area, as
14 designated by the manufacturer, factory branch, factory
15 representative, distributor, distributor branch, or distributor
16 representative, in which the new motor vehicle dealer or powersports
17 dealer is held responsible for the promotion and development of
18 sales and rendering of service for the make of motor vehicle or
19 powersports vehicle for which the new motor vehicle dealer or new
20 powersports vehicle dealer holds a franchise or selling agreement;

21 14. "Off premises" means at a location other than the address
22 designated on the new motor vehicle dealer's or new powersports
23 vehicle dealer's license;

24

1 15. "Sponsoring entity" means any person, firm, association,
2 corporation, or trust which has control, either permanently or
3 temporarily, over the real property upon which the off-premises sale
4 or display is conducted;

5 16. "Product" means new motor vehicles and new motor vehicle
6 parts or new powersports vehicle and new powersports vehicle parts;

7 17. "Service" means motor vehicle or powersports vehicle
8 warranty repairs including both parts and labor;

9 18. "Lead" means a consumer contact in response to a factory
10 program designed to generate interest in purchasing or leasing a new
11 motor vehicle or new powersports vehicle;

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

13 20. "Factory" means a manufacturer, distributor, factory
14 branch, distributor branch, or any common entity of a manufacturer,
15 distributor, factory branch or distributor branch; or factory
16 representative, or distributor representative, which manufactures or
17 distributes vehicle products;

18 21. "Powersports vehicle" means any new or unused motorcycles,
19 scooters, mopeds, all-terrain vehicles, and utility vehicles
20 required to be registered under the Oklahoma Vehicle License and
21 Registration Act, with the exception of all-terrain vehicles,
22 utility vehicles, and motorcycles used exclusively for off-road use
23 which are sold by a retail implement dealer;

1 22. "Powersports vehicle dealer" means any person, firm, or
2 corporation, resident or nonresident, that is in the business of
3 selling any new powersports vehicles except for retail implement
4 dealers;

5 23. "Retail implement dealer" means a business engaged
6 primarily in the sale of farm tractors as defined in Section 1-118
7 of this title or implements of husbandry as defined in Section 1-125
8 of this title or a combination thereof and is exempt from licensing
9 by the Commission for the sale of all-terrain vehicles, utility
10 vehicles, and motorcycles used exclusively for off-road use;

11 24. "Consumer data" means nonpublic personal information as
12 defined in 15 U.S.C., Section 6809(4) as it existed on January 1,
13 2023, that is:

- 14 a. collected by a new motor vehicle dealer, and
- 15 b. provided by the new motor vehicle dealer directly to a
16 manufacturer or third party acting on behalf of a
17 manufacturer.

18 The term shall not include the same or similar data obtained by
19 a manufacturer from any source other than the new motor vehicle
20 dealer or new motor vehicle dealer's data management system; ~~and~~

21 25. "Fleet vehicle" means a new motor vehicle sold and titled
22 or registered to a business and used for business purposes only; and

23 26. a. "Common entity" means any person, firm, association,
24 corporation, partnership, trust, or joint venture

1 acting as a new motor vehicle dealer as defined by
2 paragraph 20 of this section:

3 (1) which is directly or indirectly controlled by or
4 has more than thirty percent (30%) of its equity
5 interest directly or indirectly owned,
6 beneficially or of record, through any form of
7 ownership structure, by a factory, manufacturer;
8 manufacturer branch; distributor; or distributor
9 branch, or

10 (2) which has more than thirty percent (30%) of its
11 equity interest directly or indirectly controlled
12 or owned, beneficially or of record, through any
13 form of ownership structure, by one or more
14 persons who also directly or indirectly control
15 or own, beneficially or of record, more than
16 thirty percent (30%) of the equity interests of a
17 factory, manufacturer; manufacturer branch;
18 distributor; or distributor branch.

19 b. Notwithstanding subdivision (1) or (2) of subparagraph
20 a of this paragraph, an entity that would otherwise be
21 considered a common entity of a distributor under
22 subdivision (1) or (2) of subparagraph a of this
23 paragraph because of its relation to a distributor is
24 not considered a common entity of that distributor if:

1 (1) the distributor to which the entity is related
2 was a licensed distributor on March 1, 2025,

3 (2) the entity is not a common entity of a
4 manufacturer or an importer, and

5 (3) the distributor to which the entity is related is
6 not, and has never been, a common entity of a
7 manufacturer or an importer.

8 SECTION 2. AMENDATORY 47 O.S. 2021, Section 564, as last
9 amended by Section 4, Chapter 240, O.S.L. 2024 (47 O.S. Supp. 2024,
10 Section 564), is amended to read as follows:

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

1 vehicle dealer's license shall authorize one person to sell in the
2 event such person shall be the owner of a proprietorship, or the
3 person designated as principal in the dealer's franchise or the
4 managing officer or one partner if no principal person is named in
5 the franchise. It is further provided that a factory ~~or an entity~~
6 ~~affiliated by any ownership or control by the factory~~ shall not be
7 permitted to engage in the activities of a dealer as defined in
8 paragraph 2 of Section 562 of this title or to be licensed as a new
9 motor vehicle dealer in this state, except as provided by
10 subparagraph b of paragraph 12 of Section 565 of this title.

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

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

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

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

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

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

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

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

19 D. The licenses issued to each new motor vehicle dealer, new
20 powersports vehicle dealer, manufacturer, distributor, factory
21 branch, or distributor branch shall specify the location of the
22 factory, office, or branch thereof. In case such location is
23 changed, the Commission may endorse the change of location on the
24 license without charge unless the change of address triggers a

1 relocation of a new motor vehicle dealer or new powersports vehicle
2 dealer pursuant to the provisions of Section 578.1 of this title.

3 The licenses of each new vehicle dealer shall be posted in a
4 conspicuous place in the dealer's place or places of business.

5 Every motor vehicle factory representative or distributor
6 representative shall physically possess the license when engaged in
7 business and shall display such upon request. The name of the
8 employer of such factory representative or distributor
9 representative shall be stated on the license.

10 E. The new powersports dealer license shall only allow the sale
11 of the specific types of powersports vehicles authorized by the
12 manufacturer and agreed to by the powersports dealer.

13 SECTION 3. AMENDATORY Section 1, Chapter 29, O.S.L. 2023
14 (47 O.S. Supp. 2024, Section 564.3), is amended to read as follows:

15 Section 564.3. A. As used in this section:

16 1. "Access fee" means a requirement to pay money for access to
17 protected dealer data that is in addition to an amount specified in
18 a written and executed contract for goods and services;

19 2. "Authorized integrator" means a person who a dealer has a
20 contractual relationship with or the dealer otherwise gives express
21 written authorization to have access to protected dealer data stored
22 on a dealer data system or to write protected dealer data to the
23 dealer data system for the purpose of performing a specific function
24 for the dealer;

1 3. "Dealer data system" means software, hardware, or firmware
2 that a dealer leases or rents from a dealer management system
3 provider for the purpose of storing protected dealer data;

4 4. "Dealer management system provider" means a person who, for
5 compensation, maintains and provides access to a dealer data system
6 in which a dealer stores protected dealer data;

7 5. "Protected dealer data" means:

8 a. consumer data that a dealer generated or that the
9 consumer provided to the dealer that is not otherwise
10 publicly available and the consumer has not otherwise
11 provided consent or acknowledgment to share the
12 information, and

13 b. any other dealer data in connection with the dealer's
14 daily business operations in which a dealer has rights
15 in a dealer data system; and

16 6. Authorized integrator and dealer management system provider
17 do not include:

18 a. a ~~manufacturer, distributor, importer, factory~~ or any
19 entity that ~~is a subsidiary or affiliate of, or~~ acts
20 on behalf of, a ~~manufacturer, distributor, or importer~~
21 factory, including any subsidiary or affiliate of a
22 factory, or

b. a governmental body or other person that is acting in accordance with federal, state, or local law, or a valid court order.

B. A dealer management system provider may:

1. Condition access and ability of a dealer or authorized integrator to receive, share, copy, use, write, or transmit protected dealer data from or to a dealer data system on the dealer's or authorized integrator's compliance with commercially reasonable data security standards;

2. Require an authorized integrator to have express written authorization from a dealer before allowing the authorized integrator to gain access to, receive, share, copy, use, or transmit protected dealer data; and

3. Deny access to a dealer data system to a dealer if the dealer fails to pay an amount due to the dealer management system provider under a lease, contract, or other agreement concerning the dealer's access to or use of the dealer data system.

C. Except as provided in subsection B of this section, a dealer management system provider shall not take any action that would limit or prohibit the ability of a dealer or an authorized integrator to receive, protect, store, copy, share, or use protected dealer data using means that include, but are not limited to:

1. Imposing an access fee on a dealer or authorized integrator; and

1 2. Restricting a dealer or an authorized integrator from
2 sharing protected dealer data or writing data or having access to a
3 dealer data system. Prohibited restrictions pursuant to this
4 paragraph include, but are not limited to:

- 5 a. limits on the scope or nature of protected dealer data
6 to which a dealer or authorized integrator has access
7 or may share or write to a dealer data system, and
- 8 b. a requirement for a dealer or authorized integrator to
9 provide sensitive or confidential business information
10 or information that a dealer or authorized integrator
11 uses for competitive purposes in return for access to
12 protected dealer data or an authorization to share or
13 write protected dealer data to a dealer data system.

14 D. Except as otherwise provided in this section, any term or
15 condition of a contract with a dealer management system provider
16 that conflicts with the requirements set forth in subsection C of
17 this section is void and unenforceable to the extent of the
18 conflict.

19 E. An authorized integrator shall:

- 20 1. Obtain express written authorization from a dealer before
21 gaining access to, receiving, sharing, copying, using, writing, or
22 transmitting protected dealer data;

1 2. Comply with security standards in gaining access to,
2 receiving, sharing, copying, using, writing, or transmitting
3 protected dealer data; and

4 3. Allow a dealer to withdraw, revoke, or amend any express
5 written authorization the dealer provides under paragraph 1 of this
6 subsection:

7 a. at the sole discretion of the dealer, if the dealer
8 gives a thirty-day prior notice to an authorized
9 integrator, or

10 b. immediately, for good cause.

11 F. 1. This section does not prevent a dealer, a dealer
12 management system provider, or an authorized integrator from
13 discharging the obligations of a dealer, dealer management system
14 provider, or of an authorized integrator under federal, state, or
15 local law to secure and prevent unauthorized access to protected
16 dealer data, or from limiting the scope of the obligations, in
17 accordance with federal, state, or local law.

18 2. A dealer management system provider is not liable for any
19 action that a dealer takes directly with respect to securing or
20 preventing unauthorized access to protected dealer data, or for
21 actions that an authorized integrator takes in appropriately
22 following the written instructions of the dealer for securing or
23 preventing unauthorized access to protected dealer data, to the
24 extent that the actions prevent the dealer management system

1 provider from meeting a legal obligation to secure or prevent
2 unauthorized access to protected dealer data.

3 3. A dealer is not liable for any action that an authorized
4 integrator takes directly with respect to securing or preventing
5 unauthorized access to protected dealer data, or for actions that
6 the authorized integrator takes in appropriately following the
7 written instructions of the dealer for securing or preventing
8 unauthorized access to protected dealer data, to the extent that the
9 actions prevent the dealer from meeting a legal obligation to secure
10 or prevent unauthorized access to protected dealer data.

11 4. An authorized integrator is not liable for any action that a
12 dealer takes directly with respect to securing or preventing
13 unauthorized access to protected dealer data, or for actions that
14 the dealer takes in appropriately following the written instructions
15 of the authorized integrator for securing or preventing unauthorized
16 access to protected dealer data, to the extent that the actions
17 prevent the authorized integrator from meeting a legal obligation to
18 secure or prevent unauthorized access to protected dealer data.

19 5. A ~~manufacturer, distributor, importer,~~ factory or any entity
20 that ~~is a subsidiary or affiliate of, or acts on behalf of,~~ a
21 ~~manufacturer, distributor, or importer~~ factory, including any
22 subsidiary or affiliate of a factory, is not liable for any action
23 that a dealer, dealer management system provider, authorized
24 integrator, or other third party, except for a third party who the

1 manufacturer has provided the data to as provided for in paragraph 7
2 of this subsection, takes directly with respect to securing or
3 preventing unauthorized access to protected dealer data or for
4 actions that an authorized integrator, dealer management system
5 provider, or other third party takes in appropriately following the
6 written instructions of the dealer for securing or preventing
7 unauthorized access to protected dealer data.

8 6. Notwithstanding any other agreement, an authorized
9 integrator shall indemnify and hold the new motor vehicle dealer
10 harmless from any third-party claims asserted against or damages
11 incurred by the new motor vehicle dealer to the extent caused by
12 access to, use of, or disclosure of consumer data in violation of
13 this section.

14 7. Notwithstanding any other agreement, a ~~manufacturer,~~
15 ~~distributor, importer, factory~~ or any entity that ~~is a subsidiary or~~
16 ~~affiliate of, or acts on behalf of, a manufacturer, distributor, or~~
17 ~~importer~~ factory, including any subsidiary or affiliate of a
18 factory, shall indemnify the dealer for any third-party claims
19 asserted against or damages incurred by the dealer to the extent the
20 claims or damages are caused by the access to and unlawful
21 disclosure of protected dealer data resulting from a breach caused
22 by the manufacturer or distributor or a third party to which the
23 manufacturer or distributor has provided the protected dealer data
24

1 in violation of this section, the written consent granted by the
2 dealer, or other applicable state or federal law.

3 G. A factory or entity that acts on behalf of, a factory,
4 including any subsidiary or affiliate of a factory, may not prohibit
5 an Authorized Integrator that has satisfied or is compliant with
6 commercially reasonable data security standards and that the dealer
7 has identified as one of its authorized integrators from integrating
8 into the dealer's dealer data system or place an unreasonable
9 restriction on integration by an authorized integrator or other
10 third party that the dealer wishes to be an authorized integrator.
11 For the purposes of this subsection, "unreasonable restriction"
12 includes:

- 13 1. Imposing an access fee on a dealer or authorized integrator;
- 14 2. An unreasonable limitation or condition on the scope or
15 nature of the data that is shared with an authorized integrator;
- 16 3. An unreasonable limitation on the ability of the authorized
17 integrator to write data to a dealer data system;
- 18 4. An unreasonable limitation or condition on an authorized
19 integrator that accesses or shares protected dealer data or that
20 writes data to a dealer data system; and
- 21 5. Requiring unreasonable access to an authorized integrator's
22 sensitive, competitive, or other confidential business information
23 as a condition for accessing protected dealer data or sharing
24 protected dealer data with an authorized integrator.

1 Notwithstanding paragraph 1 of this subsection, a factory, or
2 entity that acts on behalf of a factory, including any subsidiary or
3 affiliate of a factory may charge a motor vehicle dealer or
4 authorized integrator for actual costs associated with modifications
5 to a franchisor's electronic systems to enable a functional and
6 secure interface with the authorized integrator's system and
7 software.

8 SECTION 4. AMENDATORY 47 O.S. 2021, Section 565, as last
9 amended by Section 1, Chapter 145, O.S.L. 2024 (47 O.S. Supp. 2024,
10 Section 565), is amended to read as follows:

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

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

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

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

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

6 5. Being a new motor vehicle dealer who:

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

1 misrepresen ted the terms and conditions of a sale,
2 purchase or contract for sale or purchase of a new
3 motor vehicle or any interest therein including an
4 option to purchase such vehicle,

5 g. has failed to meet or maintain the conditions and
6 requirements necessary to qualify for the issuance of
7 a license, or

8 h. completes any sale or transaction of an extended
9 service contract, extended maintenance plan, or
10 similar product using contract forms that do not
11 conspicuously disclose the identity of the service
12 contract provider;

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

15 7. Being a new motor vehicle dealer who:

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

17 b. does not provide for a suitable repair shop separate
18 from the display room with ample space to repair or
19 recondition one or more vehicles at the same time, and
20 which is staffed with properly trained and qualified
21 repair technicians and is equipped with such parts,
22 tools, and equipment as may be requisite for the
23 servicing of motor vehicles in such a manner as to
24 make them comply with the safety laws of this state

1 and to properly fulfill the dealer's or manufacturer's
2 warranty obligation,

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

11 d. employs a person without obtaining a certificate of
12 registration for the person, or utilizes the services
13 of used motor vehicle lots or dealers or other
14 unlicensed persons in connection with the sale of new
15 motor vehicles,

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

18 f. fails to order and stock a reasonable number of new
19 motor vehicles necessary to meet consumer demand for
20 each of the new motor vehicles included in the new
21 motor vehicle dealer's franchise agreement, unless the
22 new motor vehicles are not readily available from the
23 manufacturer or distributor due to limited production;

24 8. Being a factory that has:

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

1 or contribute to any local or national advertising
2 fund controlled directly or indirectly by the factory
3 or for any other purposes such as contest,
4 "giveaways", or other so-called sales promotional
5 devices, and/or change of quotas in any sales contest;
6 or has required new motor vehicle dealers, as a
7 condition to receiving their vehicle allotment, to
8 order a certain percentage of the vehicles with
9 optional equipment not specified by the new motor
10 vehicle dealer; however, nothing in this section shall
11 prohibit a factory from supporting an advertising
12 association which is open to all new motor vehicle
13 dealers on the same basis,

14 c. used a performance standard, sales objective, or
15 program for measuring dealer performance that may have
16 a material effect on a right of the dealer to vehicle
17 allocation; or payment under any incentive or
18 reimbursement program that is unfair, unreasonable,
19 inequitable, and not based on accurate information,

20 d. used a performance standard for measuring sales or
21 service performance ~~of~~ which results in penalizing any
22 new motor vehicle dealer under the terms of the
23 franchise agreement which:
24

- 1 (1) is unfair, unreasonable, arbitrary, or
2 inequitable, ~~and~~
- 3 (2) does not consider the relevant and material local
4 and state or regional criteria, prevailing
5 economic conditions affecting the sales or
6 service performance of a vehicle dealer, ~~vehicle~~
7 ~~allocation from the manufacturer,~~ and any
8 relevant and material data and facts presented by
9 the dealer in writing within thirty (30) days of
10 the written notice of the manufacturer to the
11 dealer of its intention to cancel, terminate, or
12 not renew the dealer's franchise agreement, and
- 13 (3) does not consider the actual vehicle allocation
14 offered or otherwise made available to the dealer
15 by the manufacturer or distributor, as well as
16 the dealer's inventory levels relevant to achieve
17 any minimum performance standards to which the
18 manufacturer or distributor holds the dealer
19 accountable,
- 20 e. failed or refused to sell, or offer for sale, new
21 motor vehicles to all of its authorized same line-make
22 franchised new motor vehicle dealers at the same price
23 for a comparably equipped motor vehicle, on the same
24 terms, with no differential in functionally available

1 discount, allowance, credit, or bonus, except as
2 provided in subparagraph e of paragraph 9 of this
3 subsection,

4 f. failed to provide reasonable compensation to a new
5 motor vehicle dealer substantially equivalent to the
6 actual cost of providing a manufacturer required
7 loaner or rental vehicle to any consumer who is having
8 a vehicle serviced at the dealership. For purposes of
9 this paragraph, actual cost is the average cost in the
10 new motor vehicle dealer's region for the rental of a
11 substantially similar make and model as the vehicle
12 being serviced, or

13 g. failed to make available to its new motor vehicle
14 dealers a fair and proportional share of all new
15 vehicles distributed to same line-make dealers in this
16 state, subject to the same reasonable terms, including
17 any vehicles distributed from a common new vehicle
18 inventory pool outside of the factory's ordinary
19 allocation process such as any vehicles the factory
20 reserves to distribute on a discretionary basis;

21 9. Being a factory that:

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

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

7 b. has failed to compensate its dealers for the work and
8 services they are required to perform in connection
9 with the dealer's delivery and preparation obligations
10 according to the agreements on file with the
11 Commission which must be found by the Commission to be
12 reasonable, or has failed to adequately and fairly
13 compensate its dealers for labor, parts, and other
14 expenses incurred by the dealer to perform under and
15 comply with manufacturer's warranty agreements and
16 recall repairs which shall include diagnostic work as
17 applicable and assistance requested by a consumer
18 whose vehicle was subjected to an over-the-air or
19 remote change, repair, or update to any part, system,
20 accessory, or function by the manufacturer and
21 performed by the dealer in order to satisfy the
22 consumer. Time allowances for the diagnosis and
23 performance of repair work shall be reasonable and
24 adequate for the work to be performed. Adequate and

1 fair compensation, which under this provision shall be
2 no less than the rates customarily charged for retail
3 consumer repairs as calculated herein, for parts and
4 labor for warranty and recall repairs shall, at the
5 option of the new motor vehicle dealer, be established
6 by the new motor vehicle dealer submitting to the
7 manufacturer or distributor one hundred sequential
8 nonwarranty consumer-paid service repair orders which
9 contain warranty-like repairs, or ninety (90)
10 consecutive days of nonwarranty consumer-paid service
11 repair orders which contain warranty-like repairs,
12 whichever is less, covering repairs made no more than
13 one hundred eighty (180) days before the submission
14 and declaring the average percentage labor rate and/or
15 markup rate. A new motor vehicle dealer may not
16 submit a request to establish its retail rates more
17 than once in a twelve-month period. That request may
18 establish a parts markup rate, labor rate, or both.
19 The new motor vehicle dealer shall calculate its
20 retail parts rate by determining the total charges for
21 parts from the qualified repair orders submitted,
22 dividing that amount by the new motor vehicle dealer's
23 total cost of the purchase of those parts, subtracting
24 one (1), and multiplying by one hundred (100) to

1 produce a percentage. The new motor vehicle dealer
2 shall calculate its retail labor rate by dividing the
3 amount of the new motor vehicle dealer's total labor
4 sales from the qualified repair orders by the total
5 labor hours charged for those sales. When submitting
6 repair orders to establish a retail parts and labor
7 rate, a new motor vehicle dealer need not include
8 repairs for:

- 9 (1) routine maintenance including but not limited to
10 the replacement of bulbs, fluids, filters,
11 batteries, and belts that are not provided in the
12 course of and related to a repair,
- 13 (2) factory special events, specials, or promotional
14 discounts for retail consumer repairs,
- 15 (3) parts sold or repairs performed at wholesale,
- 16 (4) factory-approved goodwill or policy repairs or
17 replacements,
- 18 (5) repairs with aftermarket parts, when calculating
19 the retail parts rate but not the retail labor
20 rate,
- 21 (6) repairs on aftermarket parts,
- 22 (7) replacement of or work on tires including front-
23 end alignments and wheel or tire rotations,
- 24

- 1 (8) repairs of motor vehicles owned by the new motor
2 vehicle dealer or employee thereof at the time of
3 the repair,
4 (9) vehicle reconditioning, or
5 (10) items that do not have individual part numbers
6 including, but not limited to, nuts, bolts, and
7 fasteners.

8 A manufacturer or distributor may, not later than
9 forty-five (45) days after submission, rebut that
10 declared retail parts and labor rate in writing by
11 reasonably substantiating that the rate is not
12 accurate or is incomplete pursuant to the provisions
13 of this section. If the manufacturer or distributor
14 determines the set of repair orders submitted by the
15 new motor vehicle dealer pursuant to this section for
16 a retail labor rate or retail parts markup rate is
17 substantially higher than the new motor vehicle
18 dealer's current warranty rates, the manufacturer or
19 distributor may request, in writing, within forty-five
20 (45) days after the manufacturer's or distributor's
21 receipt of the new motor vehicle dealer's initial
22 submission, all repair orders closed within the period
23 of thirty (30) days immediately preceding, or thirty
24 (30) days immediately following, the set of repair

1 orders initially submitted by the new motor vehicle
2 dealer. All time periods under this section shall be
3 suspended until the supplemental repair orders are
4 provided. If the manufacturer or distributor requests
5 supplemental repair orders, the manufacturer or
6 distributor may, within thirty (30) days after
7 receiving the supplemental repair orders and in
8 accordance with the formula described in this
9 subsection, calculate a proposed adjusted retail labor
10 rate or retail parts markup rate, as applicable, based
11 upon any set of the qualified repair orders submitted
12 by the franchisee and following the formula set forth
13 herein to establish the rate. The retail labor and
14 parts rates shall go into effect thirty (30) days
15 following the approval by the manufacturer or
16 distributor. If the declared rate is rebutted, the
17 manufacturer or distributor shall provide written
18 notice stating the reasons for the rebuttal, an
19 explanation of the reasons for the rebuttal, and a
20 copy of all calculations used by the franchisor in
21 determining the manufacturer or distributor's position
22 and propose an adjustment in writing of the average
23 percentage markup or labor rate based on that rebuttal
24 not later than forty-five (45) days after submission.

1 If the new motor vehicle dealer does not agree with
2 the proposed average percentage markup or labor rate,
3 the new motor vehicle dealer may file a protest with
4 the Commission not later than thirty (30) days after
5 receipt of that proposal by the manufacturer or
6 distributor. In the event a protest is filed, the
7 manufacturer or distributor shall have the burden of
8 proof to establish the new motor vehicle dealer's
9 submitted parts markup rate or labor rate was
10 inaccurate or not complete pursuant to the provisions
11 of this section. A manufacturer or distributor may
12 not retaliate against any new motor vehicle dealer
13 seeking to exercise its rights under this section. A
14 manufacturer or distributor may require a dealer to
15 submit repair orders in accordance with this section
16 in order to validate the reasonableness of a dealer's
17 retail rate for parts or labor not more often than
18 once every twelve (12) months. A manufacturer or
19 distributor may not otherwise recover its costs from
20 new motor vehicle dealers within this state including
21 a surcharge imposed on a new motor vehicle dealer
22 solely intended to recover the cost of reimbursing a
23 new motor vehicle dealer for parts and labor pursuant
24 to this section; provided, a manufacturer or

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

1 compensation or any charge-backs for consumer or
2 dealer incentives. Except in cases of suspected
3 fraud, audits of incentive payments shall only be for
4 a one-year period immediately following the date of
5 the payment. A factory shall not deny a claim or
6 charge a new motor vehicle dealer back subsequent to
7 the payment of the claim unless the factory can show
8 that the claim was false or fraudulent or that the new
9 motor vehicle dealer failed to reasonably substantiate
10 the claim by the written reasonable procedures of the
11 factory. A factory shall not deny a claim or
12 implement a charge-back against a new motor vehicle
13 dealer after payment of a claim in the event a
14 purchaser of a new vehicle that is the subject of a
15 claim fails to comply with titling or registration
16 laws of this state and is not prevented from
17 compliance by any action of the new motor vehicle
18 dealer; provided, that the factory may require the new
19 motor vehicle dealer to provide, within thirty (30)
20 days of notice of charge-back, withholding of payment,
21 or denial of claim, the documentation to demonstrate
22 the vehicle sale, delivery, and customer qualification
23 for an incentive as reported, including consumer name
24 and address and written attestation signed by the

1 dealer operator or general manager stating the
2 consumer was not on the export control list and the
3 dealer did not know or have reason to know the vehicle
4 was being exported or resold.

5 The factory shall provide written notice to a dealer
6 of a proposed charge-back that is the result of an
7 audit along with the specific audit results and
8 proposed charge-back amount. A dealer that receives
9 notice of a proposed charge-back pursuant to a
10 factory's audit has the right to file a protest with
11 the Commission within thirty (30) days after receipt
12 of the notice of the charge-back or audit results,
13 whichever is later. The factory is prohibited from
14 implementing the charge-back or debiting the dealer's
15 account until either the time frame for filing a
16 protest has passed or a final adjudication is rendered
17 by the Commission, whichever is later, unless the
18 dealer has agreed to the charge-back or charge-backs,
19 c. fails to compensate the new motor vehicle dealer for a
20 used motor vehicle:

21 (1) that is of the same make and model manufactured,
22 imported, or distributed by the factory and is a
23 line-make that the new motor vehicle dealer is
24 franchised to sell or on which the new motor

1 vehicle dealer is authorized to perform recall
2 repairs,

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

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

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

19 (5) that is not at least in the prorated amount of
20 one percent (1.00%) of the value of the vehicle
21 per month beginning on the date that is thirty
22 (30) days after the date on which the stop-sale
23 order was provided to the new motor vehicle
24

1 dealer until the earlier of either of the
2 following:

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

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

8 For the purposes of division (5) of this subparagraph,
9 the value of a used vehicle shall be the average Black
10 Book value for the year, make, and model of the
11 recalled vehicle. A factory may direct the manner and
12 method in which a new motor vehicle dealer must
13 demonstrate the inventory status of an affected used
14 motor vehicle to determine eligibility under this
15 subparagraph; provided, that the manner and method may
16 not be unduly burdensome and may not require
17 information that is unduly burdensome to provide. All
18 reimbursement claims made by new motor vehicle dealers
19 pursuant to this section for recall remedies or
20 repairs, or for compensation where no part or repair
21 is reasonably available and the vehicle is subject to
22 a stop-sale or do-not-drive order, shall be subject to
23 the same limitations and requirements as a warranty
24 reimbursement claim made under subparagraph b of this

1 paragraph. In the alternative, a manufacturer may
2 compensate its franchised new motor vehicle dealers
3 under a national recall compensation program;
4 provided, the compensation under the program is equal
5 to or greater than that provided under division (5) of
6 this subparagraph, or as the manufacturer and new
7 motor vehicle dealer otherwise agree. Nothing in this
8 section shall require a factory to provide total
9 compensation to a new motor vehicle dealer which would
10 exceed the total average Black Book value of the
11 affected used motor vehicle as originally determined
12 under division (5) of this subparagraph. Any remedy
13 provided to a new motor vehicle dealer under this
14 subparagraph is exclusive and may not be combined with
15 any other state or federal compensation remedy,

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

1 new motor vehicle dealer as protected by Section 561
2 et seq. of this title, or remodel, renovate, or
3 recondition the new motor vehicle dealer's existing
4 facilities as a prerequisite to receiving a model or
5 series of vehicles, except as may be necessary to sell
6 or service the model or series of vehicles as provided
7 by subparagraph e of this paragraph. It shall be a
8 violation of this section for new vehicle allocation
9 to be withheld subject to any requirement to purchase
10 or sell any number of used or off-lease vehicles. The
11 failure to deliver any such new motor vehicle shall
12 not be considered a violation of the section if the
13 failure is not arbitrary or is due to lack of
14 manufacturing capacity or to a strike or labor
15 difficulty, a shortage of materials, a freight
16 embargo, or other cause over which the manufacturer
17 has no control. However, this subparagraph shall not
18 apply to recreational vehicles, limited production
19 model vehicles, a vehicle not advertised by the
20 factory for sale in this state, vehicles that are
21 subject to allocation affected by federal
22 environmental laws or environmental laws of this
23 state, or vehicles allocated in response to an
24 unforeseen event or circumstance,

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

1 or licensed by the franchisor to sell or service, a
2 new motor vehicle dealer which completes a facility
3 construction or renovation pursuant to factory
4 requirements shall not be required to construct a new
5 facility or renovate the existing facility if the same
6 area of the facility or premises has been constructed
7 or substantially altered within the last ten (10)
8 years and the construction or alteration was approved
9 by the manufacturer as a part of a facility upgrade
10 program, standard, or policy. For purposes of this
11 subparagraph, "substantially altered" means to perform
12 an alteration that substantially impacts the
13 architectural features, characteristics, or integrity
14 of a structure or lot. The term shall not include
15 routine maintenance reasonably necessary to maintain a
16 dealership in attractive condition. If a facility
17 upgrade program, standard, or policy under which the
18 dealer completed a facility construction or
19 substantial alteration does not contain a specific
20 time period during which the manufacturer or
21 distributor shall provide payments or benefits to a
22 participating dealer, or the time frame specified
23 under the program is reduced or canceled prematurely
24 in the unilateral discretion of the manufacturer or

1 distributor, the manufacturer or distributor shall not
2 deny the participating dealer any payment or benefit
3 under the terms of the program, standard, or policy as
4 it existed when the dealer began to perform under the
5 program, standard, or policy for the balance of the
6 ten-year period, regardless of whether the
7 manufacturer's or distributor's program, standard, or
8 policy has been changed or canceled, unless the
9 manufacturer and dealer agree, in writing, to the
10 change in payment or benefit. During the ten-year
11 period following facility construction or substantial
12 alteration, the manufacturer shall not fail to make
13 available to the dealer a fair and proportionate share
14 of all new vehicles distributed to dealers of the same
15 line-make in this state, subject to the same
16 reasonable terms, including vehicles distributed from
17 a common new vehicle inventory pool outside of the
18 factory's ordinary allocation process, such as any
19 vehicles the factory reserves to distribute on a
20 discretionary basis,

21 f. requires a new motor vehicle dealer to establish an
22 exclusive facility or to change the location of the
23 dealership, unless supported by reasonable business,
24 market, and economic considerations; provided, that

1 this section shall not restrict the terms of any
2 agreement for such exclusive facility voluntarily
3 entered into and supported by valuable consideration
4 separate from the new motor vehicle dealer's right to
5 sell and service motor vehicles for the franchisor.
6 If a dealer is required by the manufacturer or
7 distributor to change an existing, previously approved
8 location of the dealership and has not sold its
9 existing dealership facility and real estate within
10 the later of one hundred eighty (180) days of listing
11 the property for sale or ninety (90) days after the
12 facility relocation, then, upon the written request of
13 the dealer, the manufacturer or distributor shall
14 purchase the dealer's existing dealership facility and
15 real estate as if the new motor vehicle dealership
16 continues to operate on the property. If the factory
17 and dealer cannot agree on the value of the dealership
18 facilities and real estate, then the factory and
19 dealer shall utilize the process described in
20 paragraph 6 of subsection G of Section 565.2 of this
21 title. If a manufacturer or distributor purchases a
22 dealership facility and real estate, then it shall be
23 entitled to sole ownership, possession, use, and
24

1 control of any items, buildings, or property that were
2 included in the contract to purchase,

3 g. requires a new motor vehicle dealer to enter into a
4 site-control agreement covering any or all of the new
5 motor vehicle dealer's facilities or premises;
6 provided, that this section shall not restrict the
7 terms of any site-control agreement voluntarily
8 entered into and supported by valuable consideration
9 separate from the new motor vehicle dealer's right to
10 sell and service motor vehicles for the franchisor.
11 Notwithstanding the foregoing or the terms of any
12 site-control agreement, a site-control agreement
13 automatically extinguishes if all of the factory's
14 franchises that operated from the location that are
15 the subject of the site-control agreement are
16 terminated by the factory as part of the
17 discontinuance of a product line,

18 h. refuses to pay, or claims reimbursement from, a new
19 motor vehicle dealer for sales, incentives, or other
20 payments related to a motor vehicle sold by the new
21 motor vehicle dealer because the purchaser of the
22 motor vehicle exported or resold the motor vehicle in
23 violation of the policy of the factory unless the
24 factory can show that, at the time of the sale, the

1 new motor vehicle dealer knew or reasonably should
2 have known of the purchaser's intention to export or
3 resell the motor vehicle. There is a rebuttable
4 presumption that the new motor vehicle dealer did not
5 know or could not have known that the vehicle would be
6 exported if the vehicle is titled and registered in
7 any state of the United States, or

8 i. (1) notwithstanding the terms of a franchise
9 agreement or other agreement except as provided
10 by this subsection, requires a new motor vehicle
11 dealer to purchase or utilize goods or services,
12 or contract with any vendor, identified, selected
13 or designated by the factory for the:

14 (a) operation of the dealership including
15 electronic services such as websites, data
16 management or storage systems, digital
17 retail platforms, software, or other digital
18 services or platforms, or

19 (b) construction, renovation, or improvement of
20 the new motor vehicle dealer's facility ~~from~~
21 ~~a vendor chosen by the factory~~ if goods or
22 services available from ~~other sources~~ a
23 vendor that the new motor vehicle dealer
24 chooses, are of substantially similar

1 quality, function, and design, and comply
2 with all applicable laws; provided, however,
3 that such goods are not subject to the
4 factory's intellectual property or trademark
5 rights and the new motor vehicle dealer has
6 received the factory's approval, which
7 approval may not be unreasonably withheld.
8 Nothing in this subparagraph may be
9 construed to allow a new motor vehicle
10 dealer to impair or eliminate a factory's
11 intellectual property, trademark rights, or
12 trade dress usage guidelines. Nothing in
13 this ~~section~~ subdivision or subdivision a of
14 this division prohibits the enforcement of a
15 voluntary agreement between the factory and
16 the new motor vehicle dealer where separate
17 and valuable consideration has been offered
18 and accepted. It is a violation of this
19 subdivision or subdivision a of this
20 division for a factory, or any entity that
21 acts on behalf of, a factory to coerce a new
22 motor vehicle dealer to purchase or utilize
23 certain goods or services by the withholding
24

1 vehicle allocation the new motor vehicle
2 dealer is otherwise eligible to receive, and
3 (2) for the purposes of this subparagraph, "goods and
4 services" do not include:
5 (a) moveable displays, brochures, promotional
6 materials, or electronic or digital media
7 containing material subject to the
8 intellectual property rights of a factory or
9 parts to be used in repairs under warranty
10 obligations of a factory, or
11 (b) special tools or training required by the
12 factory to perform warranty or recall
13 repairs;

14 10. Being a factory that:

15 a. establishes a system of motor vehicle allocation or
16 distribution which is unfair, inequitable, or
17 unreasonably discriminatory. A manufacturer and
18 distributor shall maintain for three (3) years records
19 that describe its methods or formula of allocation and
20 distribution of its motor vehicles and records of its
21 actual allocation and distribution of motor vehicles
22 to its motor vehicle dealers. Upon the written
23 request of any new motor vehicle dealer franchised by
24 the manufacturer or distributor, received by the

1 manufacturer or distributor within thirty (30) days of
2 the manufacturer's or distributor's written notice to
3 the dealer of its intention to cancel or terminate, or
4 written notice from the manufacturer or distributor of
5 a sales performance deficiency requiring the dealer to
6 take action to cure the alleged performance
7 deficiency, a manufacturer or distributor shall
8 disclose in writing to the new motor vehicle dealer
9 the basis upon which new motor vehicles are allocated,
10 scheduled, and delivered, by vehicle model, to new
11 motor vehicle dealers of the same line-make for that
12 manufacturer or distributor for the prior three (3)
13 years, and the basis upon which the current allocation
14 or distribution is being made or will be made based on
15 existing information to such dealer, or
16 b. changes an established plan or system of motor vehicle
17 distribution. A new motor vehicle dealer franchise
18 agreement shall continue in full force and operation
19 notwithstanding a change, in whole or in part, of an
20 established plan or system of distribution of the
21 motor vehicles offered or previously offered for sale
22 under the franchise agreement. The appointment of a
23 new importer or distributor for motor vehicles offered
24 for sale under the franchise agreement shall be deemed

1 to be a change of an established plan or system of
2 distribution. The discontinuation of a line-make
3 shall not be deemed to be a change of an established
4 plan or system of motor vehicle distribution. The
5 creation of a line-make shall not be deemed to be a
6 change of an established plan or system of motor
7 vehicle distribution as long as the new line-make is
8 not selling the same, or substantially the same
9 vehicle or vehicles previously sold through another
10 line-make by new motor vehicle dealers with an active
11 franchise agreement for the other line-make in the
12 state if such new motor vehicle dealers are no longer
13 authorized to sell the comparable vehicle previously
14 sold through their line-make. Changing a vehicle's
15 powertrain is not sufficient to show it is
16 substantially different. Upon the occurrence of such
17 change, the manufacturer or distributor shall be
18 prohibited from obtaining a license to distribute
19 vehicles under the new plan or system of distribution
20 unless the manufacturer or distributor offers to each
21 new motor vehicle dealer who is a party to the
22 franchise agreement a new franchise agreement
23 containing substantially the same provisions which
24 were contained in the previous franchise agreement;

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

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

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

- 23 b. (1) This paragraph does not prohibit a factory from
24 owning or controlling a new motor vehicle dealer

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

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

1 (3) This paragraph does not prohibit a factory from
2 owning, operating, or controlling or acting in
3 the capacity of a new motor vehicle dealer which
4 was in 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 new motor vehicle dealerships
13 selling the motor vehicles of that
14 manufacturer in this state trade exclusively
15 in the line-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 new 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 New 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 new 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 new motor vehicle dealers in the same line-make or
3 in response to a subpoena or order of the Commission or a court.

4 Proprietary information includes, but is not limited to,
5 information:

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

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

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

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

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

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

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

17 18. Being a factory that increases prices of new motor vehicles
18 which the new motor vehicle dealer had ordered for retail consumers
19 and notified the factory prior to the new motor vehicle dealer's
20 receipt of the written official price increase notification. A
21 sales contract signed by a retail consumer accompanied with proof of
22 order submission to the factory shall constitute evidence of each
23 such order, provided that the vehicle is in fact delivered to the
24 consumer. 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 new motor vehicle dealer, which
16 consent shall not be 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 new motor vehicle
5 dealer, or
- 6 b. by measuring the new motor vehicle dealer's
7 performance under the franchise based on the sale of
8 extended service contracts, extended maintenance
9 plans, or similar products offered, endorsed, or
10 sponsored by the manufacturer or distributor;

11 22. Being a factory that requires or coerces a new motor
12 vehicle dealer in this state to purchase or lease any electric
13 vehicle charging stations at the new motor vehicle dealer's expense
14 unless the franchise agreement, including any related addendums,
15 with the new motor vehicle dealer identifies electric vehicle models
16 among the vehicles available for sale under the dealer's franchised
17 line-make, or the new motor vehicle dealer has notified the
18 manufacturer or distributor of the new motor vehicle dealer's
19 intention to begin selling and servicing electric vehicles
20 manufactured or distributed by that factory. If the new motor
21 vehicle dealer's franchise identifies electric vehicle models or the
22 dealer is actually offering for sale to the public or providing
23 warranty service on electric vehicles manufactured or distributed by
24

1 that factory, the new motor vehicle dealer may not be required to
2 purchase or lease, at the new motor vehicle dealer's expense:

3 a. more than the number and type of electric vehicle
4 charging stations based upon the reasonable estimate
5 dealer sales and service volume for those vehicles in
6 the dealer's market, or

7 b. to make electric vehicle charging stations located at
8 the new motor vehicle dealership available for use by
9 the general public. Nothing in this paragraph shall
10 prohibit a factory from offering financial assistance
11 through a lump-sum payment to new motor vehicle
12 dealers that purchase or install electric charging
13 stations; and

14 23. Being a factory that withdraws all or a material part of
15 its stated electric vehicle distribution plan and fails or refuses,
16 at the written request of the new motor vehicle dealer, to accept
17 the return or otherwise fully reimburse a new motor vehicle dealer
18 for the cost of parts, tools, equipment, chargers and other
19 returnable items required as a part of that distribution plan,
20 program, policy or other initiative related to the sale or service
21 of electric motor vehicles, provided that:

22 a. the dealer demonstrates that the volume of electric
23 motor vehicle sales or service is no longer adequate
24 to allow the dealer to realize a positive return on

1 the investment over the useful life of the parts,
2 tools, equipment, chargers, or other returnable items,
3 and

4 b. the dealer submits its request to the manufacturer or
5 distributor in writing and within twenty-four (24)
6 months of dealer's receipt of the part, tools,
7 equipment, charger or other returnable items.

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

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

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

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

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

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

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

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

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

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

17 D. As used in this section:

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

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

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 ~~E. Nothing in this section shall prohibit a manufacturer or~~
4 ~~distributor from requiring a dealer to be in compliance with the~~
5 ~~franchise agreement and authorized to sell a make and model based on~~
6 ~~applicable reasonable standards and requirements that include but~~
7 ~~are not limited to any facility, technology, or training~~
8 ~~requirements necessary to sell or service a vehicle, in order to be~~
9 ~~eligible for delivery or allotment of a make or model of a new motor~~
10 ~~vehicle or an incentive.~~

11 SECTION 5. This act shall become effective November 1, 2025.

12 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND INSURANCE
13 April 17, 2025 - DO PASS
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