

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1149

6 By: Osburn

7  
8 COMMITTEE SUBSTITUTE

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

1 application for license; allowing for fines for  
2 employment of unregistered salespersons; providing  
3 procedure for denial, revocation, suspension and  
4 issuance of fines for registered salespersons; and  
5 providing an effective date.

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

7 SECTION 1. AMENDATORY Section 7, Chapter 79, O.S.L. 2019  
8 (47 O.S. Supp. 2020, Section 564.2), is amended to read as follows:

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

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

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

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

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

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

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

19 5. Being a new motor vehicle dealer who:

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

- 1           b.    uses any false or misleading advertising in connection  
2                   with business as a new motor vehicle dealer,  
3           c.    has committed any unlawful act which resulted in the  
4                   revocation of any similar license in another state,  
5           d.    has failed or refused to perform any written agreement  
6                   with any retail buyer involving the sale of a motor  
7                   vehicle,  
8           e.    has been convicted of a crime involving moral  
9                   turpitude,  
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;  
24

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  
24

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  
24

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

- 5 a. ~~any information~~ derived from monthly financial  
6 statements provided to the factory, and
- 7 b. ~~any information~~ regarding any aspect of the  
8 profitability of a particular new motor vehicle  
9 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 customer 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 site  
22 control unless agreed to as set forth in subparagraphs  
23 e and f of paragraph 9 of this subsection,

24

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 site control unless agreed to by the dealer  
15           as set forth in subparagraphs e and f of paragraph 9 of this  
16           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 dealer's receipt of the  
20           written official price increase notification.  A sales contract  
21           signed by a retail consumer accompanied with proof of order  
22           submission to the factory shall constitute evidence of each such  
23           order, provided that the vehicle is in fact delivered to the  
24           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 SECTION 3. AMENDATORY 47 O.S. 2011, Section 583, as last  
19 amended by Section 24, Chapter 161, O.S.L. 2020 (47 O.S. Supp. 2020,  
20 Section 583), is amended to read as follows:

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

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

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

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

1 provisions of this subparagraph shall be deposited in  
2 the fund established in Section 582 of this title.  
3 Administrative fines imposed pursuant to this  
4 subparagraph may be enforceable in the district courts  
5 of this state.

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

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

- 23 a. the applicant's financial standing,
- 24 b. the applicant's business integrity,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 6. a. For each manufactured home manufacturer selling  
8 directly to a licensed manufactured home dealer in  
9 this state, One Thousand Five Hundred Dollars  
10 (\$1,500.00), and

11 b. For each renewal of a manufactured home manufacturer's  
12 license, One Thousand Five Hundred Dollars  
13 (\$1,500.00);

14 7. Any manufactured home manufacturer who sells a new  
15 manufactured home to be shipped to or sited in the State of Oklahoma  
16 shall pay an installation inspection fee of Seventy-five Dollars  
17 (\$75.00) for each new single-wide manufactured home and One Hundred  
18 Twenty-five Dollars (\$125.00) for each new multi-floor manufactured  
19 home; and

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 SECTION 4. AMENDATORY Section 8, Chapter 79, O.S.L. 2019  
24 (47 O.S. Supp. 2020, Section 583.1), is amended to read as follows:

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

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

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

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

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

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

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

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

13       5. Continued or flagrant violation of any of the rules of the  
14 Commission;

15       6. Being a used motor vehicle dealer, a used motor vehicle  
16 salesperson, a wholesale used motor vehicle dealer, or a  
17 manufactured home dealer, a restricted manufactured home park  
18 dealer, a manufactured home installer, a manufactured home  
19 salesperson or a manufactured home manufacturer who:

20            a. resorts to or uses any false or misleading advertising  
21                in connection with business as a used motor vehicle  
22                dealer, wholesale used motor vehicle dealer or a  
23                restricted manufactured home park dealer or  
24                manufactured home dealer, installer or manufacturer,

- 1           b.    has committed any unlawful act which resulted in the  
2                    revocation of any similar license in another state,  
3           c.    has been convicted of a crime involving moral  
4                    turpitude,  
5           d.    has committed a fraudulent act in selling, purchasing  
6                    or otherwise dealing in motor vehicles or manufactured  
7                    homes or has misrepresented the terms and conditions  
8                    of a sale, purchase or contract for sale or purchase  
9                    of a motor vehicle or manufactured home or any  
10                  interest therein including an option to purchase such  
11                  motor vehicles or manufactured homes,  
12           e.    has engaged in business under a past or present  
13                    license issued pursuant to Sections 581 through 588 of  
14                    this title, in such a manner as to cause injury to the  
15                    public or to those with whom the licensee is dealing,  
16           f.    has failed to meet or maintain the conditions and  
17                    requirements necessary to qualify for the issuance of  
18                    a license,  
19           g.    has failed or refused to furnish and keep in force any  
20                    bond required under Sections 581 through 588 of this  
21                    title,  
22           h.    has installed or attempted to install a manufactured  
23                    home in an unworkmanlike manner, or  
24

1 i. employs ~~unlicensed persons~~ a person in connection with  
2 the sale of manufactured homes without first obtaining  
3 a certificate of registration for the person;

4 7. Being a used motor vehicle dealer who:

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

6 b. employs ~~unlicensed persons~~ a person in connection with  
7 the sale of used vehicles without first obtaining a  
8 certificate of registration for the person,

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

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

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

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

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

21 c. is not operating from the address shown on the license  
22 if this change has not been reported to the  
23 Commission.

24

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

- 5 a. a display area for manufactured homes which is easily  
6 accessible, with sufficient parking for the public,
- 7 b. an office for conducting business where the books,  
8 records, and files are kept, with access to a restroom  
9 for the public,
- 10 c. a place of business which meets all zoning, occupancy  
11 and other requirements of the appropriate local  
12 government and regular occupancy by a person, firm, or  
13 corporation engaged in the business of selling  
14 manufactured homes, and
- 15 d. a place of business which is separate and apart from  
16 any other dealer's location.

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

- 21 a. only mobile or manufactured homes that are "ready for  
22 occupancy" are sold or offered for sale,

1           b. maintains an office for conducting business where the  
2           books, records, and files are kept, with access to a  
3           restroom for the public,

4           c. maintains a place of business which meets all zoning,  
5           occupancy and other requirements of the appropriate  
6           local government and regular occupancy by a person,  
7           firm or corporation engaged in the business of selling  
8           manufactured homes inside a park, and

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

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

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

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

20          D. The Commission shall deny an application for a license, or  
21          revoke or suspend a license after it has been granted, if a  
22          manufactured home manufacturer violates or fails to comply with any  
23          applicable rule as promulgated by the Commission concerning  
24          manufactured home manufacturers.

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

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

22 G. Each of the aforementioned grounds for suspension,  
23 revocation, or denial of issuance or renewal of license shall also  
24 constitute a violation of Sections 581 through 588 of this title,

1 unless the person involved has been tried and acquitted of the  
2 offense constituting such grounds.

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

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

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

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

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

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

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

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

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

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

20          D. A dealer shall not sell or display for sale a new  
21 recreational vehicle in this state unless the dealer is licensed by  
22 the ~~OMVC~~ Commission to sell recreational vehicles in the State of  
23 Oklahoma. The dealer shall also be required to have a dealer  
24

1 agreement with the manufacturer of the recreational vehicle that  
2 meets the requirements of this act and is signed by both parties.

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

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

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

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

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

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

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

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

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

6           7. Being a new recreational vehicle dealer who:

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

8           b. does not provide for a suitable repair shop separate

9           from the display room with ample space to repair or

10          recondition one or more recreational vehicles at the

11          same time and equipped with tools, equipment, and

12          replacement parts as may be necessary for the

13          servicing of recreational vehicles in such a manner as

14          to make such vehicles comply with the safety laws of

15          this state and properly fulfill the warranty

16          obligation of the dealer or manufacturer,

17          c. does not hold a dealer agreement in effect with a

18          manufacturer or distributor of new or unused

19          recreational vehicles for the sale of the same and is

20          not authorized by the manufacturer or distributor to

21          render predelivery preparation of such vehicles sold

22          to purchasers and perform authorized postsale work

23          pursuant to the warranty of the manufacturer or

24          distributor,

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

6 8. Being a factory that has:

7 a. induced or attempted to induce by means of coercion or  
8 intimidation any new recreational vehicle dealer:

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

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

23 b. induced under threat or discrimination by the  
24 withholding from delivery to a recreational vehicle

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

19 The Commission may deny any application for license or  
20 registration, or suspend or revoke a license or registration issued,  
21 or impose a fine, only after a hearing for which the applicant or  
22 licensee or registered salesperson affected shall be given at least  
23 ten (10) days' written notice specifying the reason for denying the  
24 applicant a license or registration, or, in the case of a revocation

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

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SECTION 8. This act shall become effective November 1, 2021.

58-1-7474 AB 02/10/21