

Oklahoma Motor Vehicle Commission Laws

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Oklahoma Motor Vehicle Commission Laws

Oklahoma Statutes Title 47 - Motor Vehicles Chapter 62

Section 561 Necessity for Regulation - Legislative Finding

The Legislature finds and declares that the distribution and sale of new motor vehicles in the State of Oklahoma vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and the public welfare, and in the exercise of its police powers, it is necessary to regulate and to license motor vehicle manufacturers, distributors, representatives, new motor vehicle dealers and salespersons of new motor vehicles doing business in Oklahoma, in order to prevent frauds, impositions and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this state, and in order to avoid undue control of the independent motor vehicle dealer by the motor vehicle manufacturing and distributing organizations, and in order to foster and keep alive vigorous and healthy competition by prohibiting unfair practices by which fair and honest competition is destroyed or prevented, and to protect the public against the creation or perpetuation of monopolies and practices detrimental to the public welfare, to prevent the practice of requiring the buying of special features, appliances and equipment not desired or requested by the purchaser, to prevent false and misleading advertising, to prevent unfair practices by motor vehicle dealers, manufacturers and distributing organizations, to promote the public safety and prevent disruption of the franchise system of distribution of motor vehicles to the public and prevent deterioration of facilities for servicing motor vehicles and keeping same safe and properly functioning, and prevent bankrupting of motor vehicle dealers, who might otherwise be caused to fail because of such unfair practices.

Section 562 Definitions

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 except all-terrain vehicles, utility vehicles, and motorcycles used exclusively for off-road use;
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, 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 new motor vehicle in accordance with the procedure and safety standards required by the manufacturer of the vehicle to be made before its delivery to the purchaser. "Performance of authorized post-sale work pursuant to the warranty", as used herein, means the rendition of services which are required by the terms of the warranty that stands extended to the vehicle at the time of its sale and are to be made in accordance with the safety standards prescribed by the manufacturer. The term includes premises or facilities at which a person engages only in the repair of motor vehicles if repairs are performed pursuant to the terms of a franchise and motor vehicle manufacturer's warranty. However, the term shall not include premises or facilities at which a new motor vehicle dealer or dealers within the area of responsibility of such dealer or dealers as defined in the manufacturer's franchise agreement of such dealer or dealers performs motor vehicle repairs pursuant to the terms of a franchise and motor vehicle manufacturer's warranty. For the purpose of Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title, the terms "new motor vehicle dealer" and "new motor vehicle dealership" shall be synonymous. The term "new motor vehicle dealer" does not include:

- a. receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment or order of any court,
 - b. public officers while performing or in operation of their duties, or
 - c. employees of persons, corporations or associations enumerated in subparagraph a of this paragraph when engaged in the specific performance of their duties as such employees;
3. **"Motor vehicle salesperson"** means any person who, for gain or compensation of any kind, either directly or indirectly, regularly or occasionally, by any form of agreement or arrangement, sells or negotiates for the sale of any new motor vehicle for any new motor vehicle dealer to any one or more third parties;
 4. **"Commission"** means the Oklahoma Motor Vehicle Commission;
 5. **"Manufacturer"** means any person, firm, association, corporation or trust, resident or nonresident, who manufactures or assembles new and unused motor vehicles or who engages in the fabrication or assembly of motorized vehicles of a type required to be registered in the State of Oklahoma;
 6. **"Distributor"** means any person, firm, association, corporation or trust, resident or nonresident, who, being authorized by the original manufacturer, in whole or in part sells or distributes new and unused motor vehicles to motor vehicle dealers, or who maintains distributor representatives;
 7. **"Factory branch"** means any branch office maintained by a person, firm, association, corporation or trust who manufactures or assembles motor vehicles for the sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives;

8. "**Distributor branch**" means any branch office similarly maintained by a distributor for the same purposes a factory branch is maintained;
9. "**Factory representative**" means any officer or agent engaged as a representative of a manufacturer of motor vehicles or by a factory branch, for the purpose of making or promoting the sale of its motor vehicles, or for supervising or contacting its dealers or prospective dealers;
10. "**Distributor representative**" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a distributor or distributor branch of motor vehicles, for the purpose of making or promoting the sale of its motor vehicles, or for supervising or contacting its dealers or prospective dealers;
11. "**Franchise**" means any contract or agreement between a motor vehicle dealer and a manufacturer of a new motor vehicle or its distributor or factory branch by which the dealer is authorized to engage in the business of selling any specified make or makes of new motor vehicles;
12. "**New or unused motor vehicle**" means a vehicle which is in the possession of the manufacturer or distributor or has been sold only to the holder of a valid selling agreement, franchise or contract, granted by the manufacturer or distributor for the sale of that make of new vehicle so long as the manufacturer's statement of origin has not been assigned to anyone other than a licensed franchised new motor vehicle dealer of the same line-make;
13. "**Area of responsibility**" means the geographical area, as designated by the manufacturer, factory branch, factory representative, distributor, distributor branch or distributor representative, in which the new motor vehicle dealer is held responsible for the promotion and development of sales and rendering of service for the make of motor vehicle for which the motor vehicle dealer holds a franchise or selling agreement;
14. "**Off premises**" means at a location other than the address designated on the new motor vehicle dealer's license;
15. "**Sponsoring entity**" means any person, firm, association, corporation or trust which has control, either permanently or temporarily, over the real property upon which the off-premise sale or display is conducted;
16. "**Product**" means new motor vehicles and new motor vehicle parts;
17. "**Service**" means motor vehicle warranty repairs including both parts and labor;
18. "**Lead**" means a consumer contact in response to a factory program designed to generate interest in purchasing or leasing a new motor vehicle;
19. "**Sell or sale**" means to sell or lease; and
20. "**Factory**" means a manufacturer, distributor, factory branch, distributor branch, factory representative or distributor representative, which manufactures or distributes vehicle products.

Section 563
Oklahoma Motor Vehicle Commission

- A. There is hereby created the Oklahoma Motor Vehicle Commission, to be composed of nine (9) members. Seven of the members shall have been engaged in the manufacture, distribution or sale of new motor vehicles and two members shall be lay members, all to be appointed by the Governor of the State of Oklahoma, with the advice and consent of the State Senate. Such appointments shall be made within thirty (30) days after the effective date of this section. Each of the Commissioners thus appointed shall, at the time of the appointment, be a resident in good faith of the State of Oklahoma; and each shall be of good moral character and each of the industry related Commissioners shall have been actually engaged in the manufacture, distribution or sale of such new motor vehicles for not less than ten (10) years next preceding such appointment. The members of the Commission shall serve at the pleasure of the Governor.
- B. 1. The Commissioners shall elect a Chairman from amongst them whose term shall be for one (1) year with the right to succeed him or herself.
2. There shall be three at large members of the Commission. Six members of the Commission shall be appointed from the following geographical areas with at least one member from each area:
- a. four areas of the state shall be the northwest, northeast, southwest and southeast sections designated by Interstate 35 dividing the state east and west and Interstate 40 dividing the state north and south, excluding Oklahoma County and Tulsa County, and
- b. two additional areas shall be Oklahoma County and Tulsa County.
- There shall not be more than two members of the Commission from any one area.
- C. The terms of office of the members first appointed to the Commission shall be as follows:
1. The members appointed from the northwest, northeast and southwest areas shall serve until June 30, 1987;
2. The members appointed from the southeast area and Oklahoma County and Tulsa County shall serve until June 30, 1989; and
3. The members appointed at large shall serve until June 30, 1991.

Each member shall serve until his successor is appointed and qualifies. Thereafter, the term of office of each member of the Commission shall be for six (6) years. The term of office of any member will automatically expire if the member moves out of the geographical area from which the member was appointed. In event of death, resignation, removal, or term automatically expiring, of any person serving on the Commission, the vacancy shall be filled by appointment as provided for the unexpired portion of the term. The Commission shall meet at Oklahoma City and complete its organization immediately after the membership thereof has been appointed and has qualified. The Chairman and each member of the Commission shall take and subscribe to the oath of office required of public officers.

- D. The members of the Commission shall receive reimbursement for subsistence and traveling expenses necessarily incurred in the performance of their duties as provided by the State Travel Reimbursement Act.
- E. The Commission shall appoint a qualified person to serve as Executive Director thereof, which person shall have had not less than ten (10) years of experience in the motor vehicle industry. The Executive Director shall be appointed for a term of six (6) years, and shall not be subject to dismissal or removal without cause. The Commission shall fix the salary and prescribe the duties of the Executive Director. The Executive Director shall devote such time as necessary to fulfill the duties thereof, and before entering upon such duties shall take and subscribe to the oath of office. The Executive Director may employ such clerical, technical and other help and legal services and incur such expenses as may be necessary for the proper discharge of the duties of the Executive Director under this act. The Commission shall maintain its office and transact its business in Oklahoma City, and it is authorized to adopt and use a seal. The Executive Director is hereby authorized to hire, retain or otherwise acquire the services of an attorney to represent the Commission in any and all state and federal courts, and assist the Commission in any and all business or legal matters that may come before it. The attorney so representing the Commission shall discharge the duties under the direction of the Executive Director.
- F. The Commission is hereby vested with the powers necessary to enable it to fully and effectively carry out the provisions and objects of this act, and is hereby authorized and empowered to make and enforce all reasonable rules and to adopt and prescribe all forms necessary to accomplish such purpose. All forms used by a new motor vehicle dealer to facilitate the delivery of a vehicle pending approval of financing shall be approved by the Commission.
- G. All fees, charges and fines collected under the provisions of this act shall be deposited by the Executive Director in the State Treasury in accordance with the depository laws of this state in a special fund to be known as the "Oklahoma Motor Vehicle Commission Fund", which is hereby created, and except as hereinafter provided the monies in the fund shall be used by the Commission for the purpose of carrying out and enforcing the provisions of this act. Expenditures from the fund shall be made upon vouchers approved by the Commission or its authorized officers.

At the close of each fiscal year, the Commission shall file with the Governor and the State Auditor and Inspector a true and correct report of all fees, fines and charges collected and received by it during the preceding fiscal year and shall at the same time pay into the General Revenue Fund of the state a sum equal to ten percent (10%) of the fees, fines and charges so collected and received.

All expenses incurred by the Commission in carrying out the provisions of this act, including but not limited to per diem, wages, salaries, rent, postage, advertising, supplies, bond premiums, travel and subsistence for the Commissioners, the Executive Director, employees, and legal counsel, and printing and utilities, shall be a proper charge against such fund, exclusive of the portion thereof to be paid into the General Revenue Fund as above set out. In no event shall liability ever accrue hereunder against the State of Oklahoma in any sum whatsoever, or against the Oklahoma Motor Vehicle Commission Fund, in excess of the ninety percent (90%) of the fees, fines and charges deposited therein.

Section 564 Licenses

- A. It shall be unlawful for any person, firm, association, corporation or trust to engage in business as, or serve in the capacity of, or act as a motor vehicle dealer, or motor vehicle salesperson, or manufacturer or distributor of new motor vehicles, or factory branch, distributor branch or factory representative or distributor representative, as such, in this state without first obtaining a license therefor as provided for by law. Any person, firm, association, corporation or trust engaging in more than one of such capacities or having more than one place where such business is carried on or conducted shall be required to obtain and hold a current license for each thereof. Provided that, a new motor vehicle dealer's license shall authorize one person to sell without a salesperson's license in the event such person shall be the owner of a proprietorship, or the person designated as principal in the dealer's franchise or the managing officer or one partner if no principal person is named in the franchise.
- B. Applications for licenses required to be obtained under provisions of Section 561 et seq. of this title shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Oklahoma Motor Vehicle Commission and furnished to such applicants, and shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The Commission shall require in such application, or otherwise, information relating to the applicant's financial standing, the applicant's business integrity, whether the applicant has an established place of business and is primarily engaged in the pursuit, avocation or business for which a license, or licenses, are applied for, and whether the applicant is able to properly conduct the business for which a license, or licenses, are applied for, and such other pertinent information consistent with the safeguarding of the public interest and the public welfare. All such applications for license or licenses shall be accompanied by the appropriate fee or fees therefor in accordance with the schedule thereof hereinafter set out. In the event any such application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant. All licenses issued under the provisions of Section 561 et seq. of this title shall expire on June 30, following the date of issue and shall be nontransferable. All applications for renewal of a license for a new motor vehicle dealer, salesperson, manufacturer, distributor or manufacturer's or distributor's representative shall be submitted by June 1 of each year, and such license or licenses will be issued by July 1. If applications have not been made for renewal of licenses at the times described in this subsection, it shall be illegal for any person to represent himself or herself and act as a dealer, salesperson, manufacturer, distributor or manufacturer's or distributor's representative. Motor license agents will be notified not to accept such dealers' titles until such time as licenses have been issued by the Commission.

Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are licensed.

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

1. For each factory branch or distributor branch, Four Hundred Dollars (\$400.00) initial fee with annual renewal fee of Three Hundred Dollars (\$300.00);
 2. For each manufacturer or distributor of new motor vehicles, Four Hundred Dollars (\$400.00) initial fee with annual renewal fee of Three Hundred Dollars (\$300.00);
 3. For each factory representative or distributor representative, One Hundred Dollars (\$100.00) annually;
 4. For each new motor vehicle dealer, initial fee of Three Hundred Dollars (\$300.00) per franchise sold at each location licensed, with an annual renewal fee of One Hundred Dollars (\$100.00) per franchise sold at each location per year; and
 5. For each salesperson, Twenty-Five Dollars (\$25.00) renewed annually.
- D. The licenses issued to each new motor vehicle dealer, manufacturer, distributor, factory branch, distributor branch or representative, if a corporation, shall specify the location of the factory, office or branch thereof. In case such location is changed, the Commission may endorse the change of location on the license without charge unless the change of address triggers a relocation of a new motor vehicle dealer pursuant to the provisions of Section 578.1 of this title. The license of each dealer shall be posted in a conspicuous place in the dealer's place or places of business.

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

Section 564.1
Licensing of Off-Premises Displays and Sales

Licensing of off-premises displays of new motor vehicles and off-premise sales of new motorized recreational vehicles.

A. The Oklahoma Motor Vehicle Commission shall provide for off-premise displays of new motor vehicles and off-premise sales of new motorized recreational vehicles, by currently licensed new motor vehicle dealers as follows:

1. An off-premise event may be held for display purposes only under the following conditions:
 - a. the motor vehicles are for display purposes only and not for sale,
 - b. no selling activities shall be conducted,
 - c. the display is in dealer's factory-approved area of sales and service responsibility;
 - d. the dealer must obtain written approval from the manufacturer or distributor, and
 - e. the dealer is required to obtain approval for the display location from the sponsoring entity; and
2. An off-premise event by motorized recreational vehicle dealer or dealers, at which selling activities are conducted, may be held only under the following conditions:
 - a. permits for a sales event described in this paragraph shall be obtained from the Commission at a rate of Fifteen Dollars (\$15.00) per vehicle, per event,
 - b. the permit shall be for a period not to exceed ten (10) consecutive days,
 - c. the sponsoring entity of the sales event shall obtain a license from the Commission at the rate of Two Hundred Dollars (\$200.00) per event,
 - d. new motorized recreational vehicle dealers whose factory-approved area of responsibility includes the event location would be eligible to participate,
 - e. new motorized recreational vehicle dealers must obtain written approval from the manufacturer or distributor, and
 - f. the off-premise sales event shall be conducted within municipal, county, or state-owned or controlled facilities or within the grounds of any county, district, or state fair.

B. The Oklahoma Motor Vehicle Commission is authorized to provide a variance to the distance requirements specified in this section for any off-premise display event if:

1. The off-premise display is conducted within municipal, county, or state-owned or controlled facilities or within the grounds of any county, district, or state fair; and
2. The request for the variance must be in writing to the Commission no less than thirty (30) days prior to the off-premise display event.

Section 565

Application for License - Denial, Revocation, Suspension and Penalties

- A. The Oklahoma Motor Vehicle Commission may deny an application for a license, or revoke or suspend a license or impose a fine not to exceed Ten Thousand Dollars (\$10,000.00) against a manufacturer or distributor or a fine not to exceed One Thousand Dollars (\$1,000.00) against a dealer per occurrence that any provision of Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title is violated or for any of the following reasons:
1. On satisfactory proof of unfitness of the applicant in any application for any license under the provisions of Section 561 et seq. of this title;
 2. For any material misstatement made by an applicant in any application for any license under the provisions of Section 561 et seq. of this title;
 3. For any failure to comply with any provision of Section 561 et seq. of this title or any rule promulgated by the Commission under authority vested in it by Section 561 et seq. of this title;
 4. A change of condition after license is granted resulting in failure to maintain the qualifications for license;
 5. Being a new motor vehicle dealer or new motor vehicle salesperson who:
 - a. has required a purchaser of a new motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, accessories or equipment not desired or requested by the purchaser and installed by the dealer,
 - b. uses any false or misleading advertising in connection with business as a new motor vehicle dealer or vehicle salesperson,
 - c. has committed any unlawful act which resulted in the revocation of any similar license in another state,
 - d. has failed or refused to perform any written agreement with any retail buyer involving the sale of a motor vehicle,
 - e. has been convicted of a crime involving moral turpitude,

- f. has committed a fraudulent act in selling, purchasing or otherwise dealing in new motor vehicles or has misrepresented the terms and conditions of a sale, purchase or contract for sale or purchase of a new motor vehicle or any interest therein including an option to purchase such vehicle, or
 - g. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;
- 6. Being a new motor vehicle salesperson who is not employed as such by a licensed new motor vehicle dealer;
- 7. Being a new motor vehicle dealer who:
 - a. does not have an established place of business,
 - b. does not provide for a suitable repair shop separate from the display room with ample space to repair or recondition one or more vehicles at the same time, and which is equipped with such parts, tools and equipment as may be requisite for the servicing of motor vehicles in such a manner as to make them comply with the safety laws of this state and to properly fulfill the dealer's or manufacturer's warranty obligation,
 - c. does not hold a franchise in effect with a manufacturer or distributor of new or unused motor vehicles for the sale of the same and is not authorized by the manufacturer or distributor to render predelivery preparation of such vehicles sold to purchasers and to perform any authorized post-sale work pursuant to the manufacturer's or distributor's warranty,
 - d. employs unlicensed salespersons, or employs or utilizes the services of used motor vehicle lots or dealers or other unlicensed persons in connection with the sale of new motor vehicles,
 - e. does not properly service a new motor vehicle before delivery of same to the original purchaser thereof, or
 - f. fails to order and stock a reasonable number of new motor vehicles necessary to meet customer demand for each of the new motor vehicles included in the new motor vehicle dealer's franchise agreement, unless the new motor vehicles are not readily available from the manufacturer or distributor due to limited production;
- 8. Being a factory that has:
 - a. either induced or attempted to induce by means of coercion or intimidation, any new motor vehicle dealer:
 - (1) to accept delivery of any motor vehicle or vehicles, parts or accessories therefor, or any other commodities including advertising material which shall not have been ordered by the new motor vehicle dealer,

- (2) to order or accept delivery of any motor vehicle with special features, appliances, accessories or equipment not included in the list price of the motor vehicles as publicly advertised by the manufacturer thereof, or
 - (3) to order or accept delivery of any parts, accessories, equipment, machinery, tools, appliances or any commodity whatsoever, or
 - b. induced under threat or discrimination by the withholding from delivery to a motor vehicle dealer certain models of motor vehicles, changing or amending unilaterally the dealer's allotment of motor vehicles and/or withholding and delaying delivery of such vehicles out of the ordinary course of business, in order to induce by such coercion any such dealer to participate or contribute to any local or national advertising fund controlled directly or indirectly by the factory or for any other purposes such as contest, "give-aways" or other so-called sales promotional devices and/or change of quotas in any sales contest; or has required motor vehicle dealers, as a condition to receiving their vehicle allotment, to order a certain percentage of the vehicles with optional equipment not specified by the new motor vehicle dealer; however, nothing in this section shall prohibit a factory from supporting an advertising association which is open to all dealers on the same basis;
- 9. Being a factory that:
 - a. has attempted to coerce or has coerced any new motor vehicle dealer to enter into any agreement or to cancel any agreement, or fails to act in good faith and in a fair, equitable and nondiscriminatory manner; or has directly or indirectly coerced, intimidated, threatened or restrained any motor vehicle dealer; or has acted dishonestly, or has failed to act in accordance with the reasonable standards of fair dealing,
 - b. has failed to compensate its dealers for the work and services they are required to perform in connection with the dealer's delivery and preparation obligations according to the agreements on file with the Commission which must be found by the Commission to be reasonable, or fail to adequately and fairly compensate its dealers for labor, parts and other expenses incurred by such dealer to perform under and comply with manufacturer's warranty agreements. In determining whether the warranty compensation is adequate and fair, the Commission shall consider the amount that is charged by the dealer or dealers in their areas of responsibility to their nonwarranty work of like kind. All claims made by dealers for compensation for delivery, preparation and warranty work shall be paid within thirty (30) days after approval and shall be approved or disapproved within thirty (30) days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval. The dealer's delivery, preparation and warranty obligations as filed with the Commission shall constitute the dealer's sole responsibility for product liability as between the dealer and manufacturer. A factory may reasonably and periodically audit a new motor vehicle dealer to determine the validity of paid claims for dealer compensation or any charge-backs for warranty parts or service compensation. Audits of warranty payments shall

only be for the one-year period immediately following the date of the payment. A manufacturer shall reserve the right to reasonable, periodic audits to determine the validity of paid claims for dealer compensation or any charge-backs for consumer or dealer incentives. Audits of incentive payments shall only be for a one-year period immediately following the date of the payment. A factory shall not deny a claim or charge a new motor vehicle dealer back subsequent to the payment of the claim unless the factory can show that the claim was false or fraudulent or that the new motor vehicle dealer failed to reasonably substantiate the claim by the written reasonable procedures of the factory, or

- c. unreasonably fails or refuses to offer to its same line-make franchised dealers all models manufactured for that line-make, or unreasonably requires a dealer to pay any extra fee, purchase unreasonable advertising displays or other materials, or remodel, renovate, or recondition the dealer's existing facilities as a prerequisite to receiving a model or series of vehicles. The failure to deliver any such new motor vehicle shall not be considered a violation of the section if the failure is not arbitrary or is due to lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo or other cause over which the manufacturer has no control. However, this subparagraph shall not apply to recreational vehicles or limited production model vehicles;
10. Being a factory that establishes a system of motor vehicle allocation or distribution which is unfair, inequitable or unreasonably discriminatory. Upon the request of any dealer franchised by it, a factory shall disclose in writing to the dealer the basis upon which new motor vehicles are allocated, scheduled and delivered among the dealers of the same line-make for that factory;
 11. Being a factory that sells directly or indirectly new motor vehicles or services to any retail consumer in the state except through a new motor vehicle dealer holding a franchise for the line-make that includes the new motor vehicle. This paragraph does not apply to factory sales of new motor vehicles to its employees, family members of employees, retirees and family members of retirees, not-for-profit organizations or the federal, state or local governments. The provisions of this paragraph shall not preclude a factory from providing information to a consumer for the purpose of marketing or facilitating a sale of a new motor vehicle or from establishing a program to sell or offer to sell new motor vehicles through participating dealers;
 12. a. Being a factory which directly or indirectly:
 - (1) owns any ownership interest or has any financial interest in a new motor vehicle dealer or any person who sells products or services to the public,
 - (2) operates or controls a new motor vehicle dealer, or
 - (3) acts in the capacity of a new motor vehicle dealer.

- b. (1) This paragraph does not prohibit a factory from owning or controlling a new motor vehicle dealer while in a bona fide relationship with a dealer development candidate who has made a substantial initial investment in the franchise and whose initial investment is subject to potential loss. The dealer development candidate can reasonably expect to acquire full ownership of a new motor vehicle dealer within a reasonable period of time not to exceed ten (10) years and on reasonable terms and conditions. The ten-year acquisition period may be expanded for good cause shown.
- (2) This paragraph does not prohibit a factory from owning, operating, controlling or acting in the capacity of a motor vehicle dealer for a period not to exceed twelve (12) months during the transition from one dealer to another dealer if the dealership is for sale at a reasonable price and on reasonable terms and conditions to an independent qualified buyer. On showing by a factory of good cause, the Oklahoma Motor Vehicle Commission may extend the time limit set forth above; extensions may be granted for periods not to exceed twelve (12) months.
- (3) This paragraph does not prohibit a factory from owning, operating or controlling or acting in the capacity of a motor vehicle dealer which was in operation prior to January 1, 2000.
- (4) This paragraph does not prohibit a factory from owning, directly or indirectly, a minority interest in an entity that owns, operates or controls motor vehicle dealerships of the same line-make franchised by the manufacturer, provided that each of the following conditions are met:
- (a) all of the motor vehicle dealerships selling the motor vehicles of that manufacturer in this state trade exclusively in the line-make of that manufacturer,
 - (b) all of the franchise agreements of the manufacturer confer rights on the dealer of the line-make to develop and operate, within a defined geographic territory or area, as many dealership facilities as the dealer and manufacturer shall agree are appropriate,
 - (c) at the time the manufacturer first acquires an ownership interest or assumes operation, the distance between any dealership thus owned or operated and the nearest unaffiliated motor vehicle dealership trading in the same line-make is not less than seventy (70) miles,
 - (d) during any period in which the manufacturer has such an ownership interest, the manufacturer has no more than three franchise agreements with new motor vehicle dealers licensed by the Oklahoma Motor Vehicle Commission to do business within the state, and

- (e) prior to January 1, 2000, the factory shall have furnished or made available to prospective motor vehicle dealers an offering-circular in accordance with the Trade Regulation Rule on Franchising of the Federal Trade Commission, and any guidelines and exemptions issued thereunder, which disclose the possibility that the factory may from time to time seek to own or acquire, directly or indirectly, ownership interests in retail dealerships;
13. Being a factory which directly or indirectly makes available for public disclosure any proprietary information provided to the factory by a new motor vehicle dealer, other than in composite form to dealers in the same line-make or in response to a subpoena or order of the Commission or a court. Proprietary information includes, but is not limited to, information based on:
 - a. any information derived from monthly financial statements provided to the factory, and
 - b. any information regarding any aspect of the profitability of a particular new motor vehicle dealer;
 14. Being a factory which does not provide or direct leads in a fair, equitable and timely manner. Nothing in this paragraph shall be construed to require a factory to disregard the preference of a consumer in providing or directing a lead;
 15. Being a factory which used the customer list of a new motor vehicle dealer for the purpose of unfairly competing with dealers;
 16. Being a factory which prohibits a new motor vehicle dealer from relocating after a written request by such new motor vehicle dealer if:
 - a. the facility and the proposed new location satisfies or meets the written reasonable guidelines of the factory, and
 - b. the proposed new location is within the area of responsibility of the new motor vehicle dealer pursuant to Section 578.1 of this title; and
 17. Being a factory which prohibits a new motor vehicle dealer from adding additional line-makes to its existing facility, if, after adding the additional line-makes, the facility satisfies the written reasonable facility guidelines of the factory.
 18. Being a factory that increases prices of new motor vehicles which the new motor vehicle dealer had ordered for retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a retail consumer shall constitute evidence of each such order, provided that the vehicle is in fact delivered to the customer. Price differences applicable to new models or series shall not be considered a price increase for purposes of this paragraph. Price changes caused by any of the following shall not be subject to the provisions of this paragraph:
 - a. the addition to a motor vehicle of required or optional equipment pursuant to state or federal law,

- b. revaluation of the United States dollar in the case of foreign-made vehicles or components, or
 - c. an increase in transportation charges due to increased rates imposed by common or contract carriers.
- B. Notwithstanding the terms of any franchise agreement, in the event of a proposed sale or transfer of a dealership, the manufacturer or distributor shall be permitted to exercise a right of first refusal to acquire the assets or ownership interest of the dealer of the new vehicle dealership, if such sale or transfer is conditioned upon the manufacturer or dealer entering into a dealer agreement with the proposed new owner or transferee, only if all the following requirements are met:
 - 1. To exercise its right of first refusal, the factory must notify the dealer in writing within sixty (60) days of receipt of the completed proposal for the proposed sale transfer;
 - 2. The exercise of the right of first refusal will result in the dealer and the owner of the dealership receiving the same or greater consideration as they have contracted to receive in connection with the proposed change of ownership or transfer;
 - 3. The proposed sale or transfer of the assets of the dealership does not involve the transfer or sale to a member or members of the family of one or more dealer owners, or to a qualified manager or a partnership or corporation controlled by such persons; and
 - 4. The factory agrees to pay the reasonable expenses, including attorney fees which do not exceed the usual, customary and reasonable fees charged for similar work done for other clients incurred by the proposed new owner and transferee prior to the exercise by the factory of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets. Notwithstanding the foregoing, no payment of expenses and attorney fees shall be required if the proposed new dealer or transferee has not submitted or caused to be submitted an accounting of those expenses within thirty (30) days of receipt of the written request of the factory for such an accounting. The accounting may be requested by a factory before exercising its right of first refusal.
- C. Nothing in this section shall prohibit, limit, restrict or impose conditions on:
 - 1. Business activities, including without limitation the dealings with motor vehicle manufacturers and the representatives and affiliates of motor vehicle manufacturers, of any person that is primarily engaged in the business of short-term, not to exceed twelve (12) months, rental of motor vehicles and industrial and construction equipment and activities incidental to that business, provided that:
 - a. any motor vehicle sold by that person is limited to used motor vehicles that have been previously used exclusively and regularly by that person in the conduct of business and used motor vehicles traded in on motor vehicles sold by that person,

- b. warranty repairs performed by that person on motor vehicles are limited to those motor vehicles that it owns, previously owned or takes in trade, and
 - c. motor vehicle financing provided by that person to retail consumers for motor vehicles is limited to used vehicles sold by that person in the conduct of business; or
2. The direct or indirect ownership, affiliation or control of a person described in paragraph 1 of this subsection.

Section 565.1
Procedure for Prevention or Refusal
to Honor Succession to Dealership by Legal Heir or Devisee

Notwithstanding the terms of any franchise agreement, and subject to the following conditions contained in paragraphs 1 through 5 of this section, any manufacturer or distributor who prevents or refuses to honor the succession to a dealership by any legal heir or devisee under the will of a new motor vehicle dealer or under the laws of descent and distribution of this state without good cause or good faith, as defined in this section, shall be subject to the following procedure:

1. Within one hundred twenty (120) days after the death of the new motor vehicle dealer, the manufacturer shall receive a written notice from any legal heir or devisee who intends to establish a successor dealership. If timely notice is not so received, then this paragraph shall not apply, and any succession shall be governed solely by the terms of the franchise;
2. Within thirty (30) days of receipt of the legal heir's or devisee's timely written notice, the manufacturer may request, and the legal heir or devisee shall, within a reasonable time, provide any information which is reasonably necessary for the manufacturer to evaluate the proposed successor dealer and dealership, including, but not limited to, applications, proposals for facilities and financing;
3. Within sixty (60) days of receipt of such information, the manufacturer shall approve or disapprove the proposed successor dealership, and in case of disapproval shall communicate in writing such disapproval and grounds for disapproval to the legal heir or devisee;
4. Failure of the manufacturer to act in a timely manner with respect to any time period described above shall constitute a waiver of the manufacturer's right to disapprove the proposed succession;
5. Within ten (10) days of its receipt of the manufacturer's notice of disapproval, the legal heir or devisee may file a protest of the manufacturer's decision with the Oklahoma Motor Vehicle Commission and request a hearing. Such hearing shall be heard in a substantially similar manner as provided by Section 566 of this title, except that the Commission shall render a final decision within sixty (60) days of the filing of the protest. The manufacturer shall have the burden of proof to show

that its disapproval was for a good cause and in good faith. The disapproval by the manufacturer shall be final if the legal heir or devisee fails to file a timely protest of such disapproval. In the event that the Commission finds that the manufacturer's disapproval was not made for good cause, then it shall issue a final order requiring the manufacturer to honor the successor designated in the notice sent by the legal heir or devisee. Notwithstanding anything to the contrary in this section, a new motor vehicle dealer may designate any person as successor by filing a written instrument pursuant to the franchise with the manufacturer during the new motor vehicle dealer's lifetime. In such a case, the written instrument and franchise shall govern the dealership succession.

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

Section 565.2

Termination, Cancellation, or Failure to Renew Franchise

- A. Irrespective of the terms, provisions or conditions of any franchise, or the terms or provisions of any waiver, no manufacturer shall terminate, cancel or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has satisfied the notice requirements as provided in this section and has good cause for cancellation, termination or nonrenewal. The manufacturer shall not attempt to cancel or fail to renew the franchise agreement of a new motor vehicle dealer in this state unfairly and without just provocation or without due regard to the equities of the dealer or without good faith as defined herein. As used herein, "good faith" means the duty of each party to any franchise agreement to act in a fair and equitable manner toward each other, with freedom from coercion or intimidation or threats thereof from each other.
- B. Irrespective of the terms, provisions or conditions of any franchise, or the terms or provisions of any waiver, good cause shall exist for the purpose of a termination, cancellation, or nonrenewal when:
1. The new motor vehicle dealer has failed to comply with a provision of the franchise, which provision is both reasonable and of material significance to the franchise relationship, or the new motor vehicle dealer has failed to comply with reasonable performance criteria for sales or service established by the manufacturer, and the dealer has been notified by written notice from the manufacturer; and
 2. The new motor vehicle dealer has received written notification of failure to comply with the manufacturer's reasonable sales performance standards, capitalization requirements, facility commitments, business related equipment acquisitions or other such remediable failings exclusive of those reasons enumerated in paragraph 1 of subsection C of this section, and the new motor vehicle dealer has

been afforded a reasonable opportunity of not less than six (6) months to comply with such a provision or criteria.

- C. Irrespective of the terms, provisions or conditions of any franchise agreement prior to the termination, cancellation or nonrenewal of any franchise, the manufacturer shall furnish notification of such termination, cancellation or nonrenewal to the new motor vehicle dealer and the Oklahoma Motor Vehicle Commission as follows:
1. Not less than ninety (90) days prior to the effective date of such termination, cancellation or nonrenewal unless for a cause described in paragraph 2 of this subsection;
 2. Not less than fifteen (15) days prior to the effective date of such termination, cancellation or nonrenewal with respect to any of the following:
 - a. insolvency of the new motor vehicle dealer, or the filing of any petition by or against the motor vehicle dealer under any bankruptcy or receivership law,
 - b. failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven (7) consecutive business days, provided that such failure to conduct business shall not be due to act of God or circumstances beyond the direct control of the new motor vehicle dealer, or
 - c. conviction of the new motor vehicle dealer of any felony which is punishable by imprisonment or a violation of the Federal Odometer Act; and
 3. Not less than one hundred eighty (180) days prior to the effective date of such termination or cancellation where the manufacturer or distributor is discontinuing the sale of the product line.

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

- D. Upon the affected new motor vehicle dealer's receipt of the aforementioned notice of termination, cancellation or nonrenewal, the new motor vehicle dealer shall have the right to file a protest of such threatened termination, cancellation or nonrenewal with the Commission within thirty (30) days and request a hearing. Such hearing shall be held in accordance with the provisions of the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes, to determine if the threatened cancellation, termination or nonrenewal of the franchise has been for good cause and if the factory has complied with its obligations pursuant to subsections A, B and C of this section and the factory shall have the burden of proof. If the Commission finds that the threatened cancellation, termination or nonrenewal of the franchise has not been for good cause or violates subsection A, B or C of this section, then it shall issue a final order stating that the threatened termination is wrongful. A factory shall have the right to appeal such order. During the pendency of the hearing and after the decision, the franchise shall remain in full force and effect, including the right to transfer the franchise. If the Commission finds that the threatened cancellation, termination or nonrenewal is for good

cause and does not violate subsection A, B or C of this section, the new motor vehicle dealer shall have the right to an appeal. During the pendency of the action, including the final decision or appeal, the franchise shall remain in full force and effect, including the right to transfer the franchise. If the new motor vehicle dealer prevails in the threatened termination action, the Commission shall award to the new motor vehicle dealer the attorney fees and costs incurred to defend the action.

- E. If the factory prevails in an action to terminate, cancel or not renew any franchise, the new motor vehicle dealer shall be allowed fair and reasonable compensation by the manufacturer for:
1. New current and previous model year vehicle inventory which has been acquired from the manufacturer, and which is unused and has not been damaged or altered while in the dealer's possession;
 2. Supplies and parts which have been acquired from the manufacturer, for the purpose of this section, limited to any and all supplies and parts that are listed on the current parts price sheet available to the dealer;
 3. Equipment and furnishings, provided the new motor vehicle dealer purchased them from the manufacturer or its approved sources; and
 4. Special tools, with such fair and reasonable compensation to be paid by the manufacturer within ninety (90) days of the effective date of the termination, cancellation or nonrenewal, provided the new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer.
- F. If a factory prevails in an action to terminate, cancel or not renew any franchise and the new motor vehicle dealer is leasing the dealership facilities, the manufacturer shall pay a reasonable rent to the lessor in accordance with and subject to the provisions of subsection G of this section.
- G. 1. Such reasonable rental value shall be paid only to the extent the dealership premises are recognized in the franchise and only if they are:
- a. used solely for performance in accordance with the franchise, and
 - b. not substantially in excess of facilities recommended by the manufacturer;
2. If the facilities are owned by the new motor vehicle dealer, the manufacturer will either:
- a. locate a qualified purchaser who will offer to purchase the dealership facilities at a reasonable price,
 - b. locate a qualified lessee who will offer to lease the premises for a reasonable term at reasonable rent, or
 - c. failing the foregoing, lease the dealership facilities at a reasonable rental value for one (1) year;

3. If the facilities are leased by the new motor vehicle dealer, the manufacturer will either:
 - a. locate a tenant or tenants satisfactory to the lessor, who will sublet or assume the balance of the lease,
 - b. arrange with the lessor for the cancellation of the lease without penalty to the dealer, or
 - c. failing the foregoing, lease the dealership facilities at a reasonable rent for one (1) year; and
4. The manufacturer shall not be obligated to provide assistance under this section if the new motor vehicle dealer:
 - a. fails to accept a bona fide offer from a prospective purchaser, subleases or assignee,
 - b. refuses to execute a settlement agreement with the lessor if such agreement with the lessor would be without cost to the dealer, or
 - c. fails to make written request for assistance under this section within one (1) month after receiving an order from the Commission affirming the proposed termination, cancellation or nonrenewal.

Section 565.3
Notice to Manufacturer or Distributor
of Proposed Sale, Transfer, or Assignment of Franchise

- A. A franchised vehicle dealer proposing a sale, transfer, or assignment of a franchise agreement or the business and assets of a dealership or an interest in a dealership to another person, hereinafter transferee, shall notify the manufacturer or distributor whose vehicles the dealer is franchised to sell of the proposed action of the dealer. The manufacturer or distributor may make written request to the transferee to submit completed application forms and related information generally utilized by a manufacturer to evaluate such a proposal and a copy of all agreements related to the proposed sale, transfer, or assignment.
- B. The approval by the manufacturer or distributor of the sale, transfer, or assignment shall not be unreasonably withheld. The burden of proof shall be upon the manufacturer or distributor to show good cause existed to withhold approval. The manufacturer or distributor that has made such a determination shall send a letter by certified mail to the dealer and the applicant of its refusal to approve the proposal, which shall include a statement of the specific grounds for refusal, with sixty (60) days after the later of:
 1. Receipt by the manufacturer or distributor of the notice of the proposed sale, transfer, or assignment; or

2. Receipt by the manufacturer or distributor of the information requested from the transferee pursuant to subsection A of this section if the manufacturer or distributor has requested such information within fifteen (15) days of receipt of written notice of the proposed sale, transfer, or assignment.
- C. Failure of the manufacturer or distributor to send its notice of refusal pursuant to subsection B of this section shall mean that the application for the proposed sale, transfer, or assignment is approved.

Section 566

Denial, Suspension or Revocation of License - Procedures and Fines

The Commission may deny any application for license, or suspend or revoke a license issued or impose a fine, only after a hearing of which the applicant, or licensee affected, shall be given at least ten (10) days' written notice specifying the reason for denying the applicant a license, or, in the case of a revocation or suspension or imposition of a fine, the offenses of which the licensee is charged. Such notices may be served as provided by law for the service of notices, or mailing a copy by registered mail to the last-known residence or business address of such applicant or licensee. The hearing on such charges shall be at such time and place as the Commission may prescribe and the aforementioned notice shall further specify the time and place. If such applicant or licensee is a motor vehicle salesperson, factory representative or distributor representative, the Commission shall in like manner also notify the person, firm, association, corporation or trust with whom he or she is associated, or in whose association he or she is about to enter. The Commission shall have the power to compel the production of all records, papers and other documents which may be deemed relevant to the proceeding bearing upon the complaints. The Commission shall have the power to subpoena and bring before it any person, or take testimony of any such person by deposition, with the same fees and mileage and in the same manner as prescribed in proceedings before courts of the state in civil cases. Any party to such hearing shall have the right to the attendance of witnesses in his behalf upon designating to the Commission the person or persons sought to be subpoenaed.

Section 566.1

Application Of Administrative Procedures Act

All rulings, orders, decisions, procedures or acts of the Oklahoma Motor Vehicle Commission shall be subject to the provisions of the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

Section 567

Injunctions

The Oklahoma Motor Vehicle Commission is hereby authorized, without cost bond or deposit, to institute injunctive actions in courts of competent jurisdiction, in the name of the State of Oklahoma on the relation of the Commission, to enforce the provisions of Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title. Any licensee or other person who violates or threatens to violate any provision of this chapter or rule promulgated thereunder or order of the Commission may be enjoined from so doing.

Section 572

Venue in Damage Actions

Any action brought to recover any damages that may be sustained by any motor vehicle dealer may be brought in the county in which said dealer is located and in addition to the action for damages he shall be entitled to sue for and have injunctive relief against the threatened loss, damage or injury to his business or property because of any violation of Sections 565 through 566 and 579 of this title or the threatened cancellation, termination or failure to renew any franchise agreement between any factory and said dealer, and the court may grant such injunctive relief, including temporary restraining orders, as it deems just and proper, notwithstanding any other provisions of law, and in addition to any other remedy which may be afforded under any other statute of this state.

Section 573

Liberal Construction

All provisions in this chapter shall be liberally interpreted to protect the public from fraud in the business of purchasing or selling motor vehicles and to protect the investments of its citizens in motor vehicles and dealerships and to protect the transportation system of the state and shall further be interpreted to affect existing as well as future franchise agreements.

Section 576
Petty Cash Fund - Creation

There is hereby created a petty cash fund not to exceed One Hundred Dollars (\$100.00) for the Oklahoma Motor Vehicle Commission, which may be expended for small authorized expenses of the Commission.

Section 577
Administration

The Director of State Finance is authorized to prescribe forms, systems and procedures for its administration. The petty cash fund may be reimbursed from time to time by the filing of proper claims, accompanied by valid receipts for expenditures made.

Section 578.1
Procedure for Establishing New or Relocating Existing New Motor Dealership

Sixty Day Notice – Terms – Exceptions

- A. Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, if a factory intends or proposes to enter into a franchise to establish an additional new motor vehicle dealer or to relocate an existing new motor vehicle dealer within or into a relevant market area in which the same line-make of motor vehicle is currently represented, the factory shall provide at least sixty (60) days advance written notice to the Commission and to each new motor vehicle dealer of the same line-make in the relevant market area, of the intention of the factory to establish an additional new motor vehicle dealer or to relocate an existing new motor vehicle dealer within or into the relevant market area. For purposes of this section, the "relevant market area" means the area within a radius of fifteen (15) miles of the site of the proposed new motor vehicle dealership. The notice shall be sent by certified mail to each party and shall include the following information:
1. The specific location at which the additional or relocated motor vehicle dealer will be established;
 2. The date on or after which the additional or relocated motor vehicle intends to commence business at the proposed location;
 3. The identity of all motor vehicle dealers who are franchised to sell the same line-make vehicles as the proposed dealer and who have licensed locations within the relevant market area;

4. The names and addresses of the person intended to be franchised as the proposed additional or relocated motor vehicle dealership, the principal investors in the proposed additional or relocated motor vehicle dealership, and the proposed dealer operator of the proposed additional or relocated motor vehicle dealership; and
5. The specific grounds or reasons for the proposed establishment of an additional motor vehicle dealer or relocation of an existing dealer.

B. This section does not apply:

1. To the relocation of an existing new motor vehicle dealer within the relevant market area of that dealer; provided, that the relocation not be at a site within ten (10) miles of a licensed new motor vehicle dealer for the same line-make of motor vehicle;
2. To a proposed additional new motor vehicle dealer which is to be established at or within two (2) miles of a location at which a former licensed new motor vehicle dealer for the same line-make of new motor vehicle had ceased operating within the previous two (2) years;
3. To the relocation of an existing new motor vehicle dealer within two (2) miles of the existing site of the new motor vehicle dealership; or
4. To the relocation of an existing new motor vehicle dealer if the proposed site of the relocated new motor vehicle dealership is farther away from all other new motor vehicle dealers of the same line-make in that relevant market area.

Protest of Proposed New or Relocated Dealership – Hearing

- C. Within thirty (30) days after receipt of the notice, or within thirty (30) days after the end of an appeal procedure provided by the factory, whichever is greater, a new motor vehicle dealer so notified or entitled to notice may file a petition with the Commission protesting the proposed establishment or relocation. The petition shall contain a short statement setting forth the reasons for the objection of the dealer to the proposed establishment or relocation. Upon filing of a protest, the Commission shall promptly notify the factory that a timely protest has been filed and shall schedule a hearing, which shall be held within one hundred twenty (120) days of the filing of a timely protest. The factory shall not establish or relocate the new motor vehicle dealer until the Commission has held a hearing and has determined that there is good cause for permitting the proposed establishment or relocation. When more than one protest is filed against the establishment or relocation of the same dealer, the Commission shall consolidate the hearings to expedite disposition of the matter.

Burden of Proof

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

Section 579
Circumstances to be Considered in Determining Good Cause
for Establishing or Relocating Franchise

In determining whether good cause has been established for permitting the proposed establishment or relocation of an additional franchise for the same line-make, the Oklahoma Motor Vehicle Commission shall take into consideration, and must be persuaded, that good cause exists for entering into or relocating an additional franchise for the same line-make by the greater weight of facts and the existing circumstances, including, but not limited to:

1. Permanency of the investment of the proposed dealership;
2. Effect on the retail new motor vehicle business and the consuming public in the relevant market area;
3. Whether it is injurious to the public welfare for an additional new motor vehicle dealership to be established;
4. Whether the new motor vehicle dealers of the same line-make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicle sales and service facilities, equipment, supply of motor vehicle parts, and qualified service personnel; and
5. Whether the establishment of an additional new motor vehicle dealership would increase competition, and therefore be in the public interest.

Section 579.1
Broker – Defined and Prohibited

- A. It shall be unlawful to be a broker.
- B. For the purposes of this section, "broker" means a person who, for a fee, commission or other valuable consideration, arranges or offers to arrange a transaction involving the sale of a new motor vehicle, and who is not:
 1. A new motor vehicle dealer or employee of such a dealer;
 2. A distributor or employee of such a distributor;
 3. A motor vehicle manufacturer or employee of such a manufacturer; or
 4. An auctioneer or any other person engaged in the auto auction business.

However, an individual shall not be deemed to be a broker if the individual is the owner of the new or used motor vehicle which is the object of the brokering transaction.

- C. Any person convicted of being a broker as defined by this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year and a fine of not more than One Thousand Dollars (\$1,000.00). Any person convicted of a second or subsequent offense shall be guilty of a Schedule G felony offense, and the fine for a felony violation of this section shall be not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00).

Section 580
Licenses - Cause for Denial, Revocation or Suspension

The Commission may deny an application for a license, or revoke or suspend a license after it has been granted, if any party fails to comply with Section 3 or 4 of this act (Section 578 or 579 of this title).

Section 580.2
Insurance Coverage on Loaned Vehicles from Authorized Motor Vehicle Dealer

During the time a person is operating a motor vehicle with the express or implied permission of an authorized motor vehicle dealer, as defined in Section 562 of this title, such person's motor vehicle liability policy shall have primary coverage with the motor vehicle liability policy of the dealer having secondary coverage until the vehicle is returned. The change in financial responsibility shall be evidenced by a release signed by the person operating the vehicle with the express or implied permission of the dealer with the release to be returned to the person upon the return of the motor vehicle to the dealer. The motor vehicle liability policy of such person shall meet the minimum financial responsibility requirements found in Section 47-7-324 of this title.

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

Additional Laws Related To New Motor Vehicle Dealers

Sale, Barter or Exchange of Motor Vehicles on Sunday Prohibited Title 21 Chapter 36

Section 917 - Definitions

- A. The term "motor vehicle" as used in this act shall mean every vehicle intended primarily for use and operation on the public highways, which is self-propelled; and every vehicle intended primarily for operation on the public highways which is not driven or propelled by its own power, but which is designed either to be attached to or become a part of a self-propelled vehicle; but not including farm tractors and other machines and tools used in the production, harvesting and care of farm products.
- B. The term "antique, classic, or special interest automobile" as used in Section 918 of this title shall mean a motor vehicle which only travels on the highways of this state primarily for historical or exhibition purposes.

Section 918 – Sunday Sales Prohibited

No person, firm or corporation, whether owner, proprietor, agent or employee, shall keep open, operate or assist in keeping open or operating any place or premises or residences whether open or closed, for the purpose of selling, bartering, or exchanging, or offering for sale, barter, or exchange, any motor vehicle or motor vehicles, whether new, used or second hand, on the first day of the week, commonly called Sunday, except as otherwise provided in this section; and provided, however, that this act shall not apply to the opening of an establishment or place of business on the said first day of the week for other purposes, such as the sale of petroleum products, tires, automobile accessories, or for the purpose of operating and conducting a motor vehicle repair shop, or for the purpose of supplying such services as towing or wrecking. Antique, classic, or special interest automobiles sold, bartered, auctioned, or exchanged by any person, firm, or corporation are exempt from the provisions of this section, as well as off-premise sales of new motorized recreational vehicles approved by the Oklahoma Motor Vehicle Commission pursuant to Section 564.1 of Title 47 of the Oklahoma Statutes.

Section 919 - Penalty for Violation

Any person, firm, partnership, or corporation who violates any of the provisions of this act shall be guilty of a misdemeanor, and upon each conviction thereof, shall be punished by a fine of not less than Seventy-five Dollars (\$75.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a period not to exceed six (6) months, or the court, in its discretion, may suspend or revoke the Oklahoma motor vehicle dealer's license issued under the provisions of 47 O.S. 1951 Sec. 22.15, or by such fine and imprisonment and suspension or revocation.

In-Transit License Plates (D-TAGS)
Title 47 Chapter 74 Section 1128

A. Every person manufacturing or having a contract to sell new vehicles in this state shall file a verified application for a general distinctive number for all new vehicles owned or controlled by the manufacturer or dealer; provided, the Oklahoma Tax Commission shall issue a license to sell such new motor vehicles only for those types of new vehicles for which the applicant has a sales contract or franchise; provided, further, that no license shall be issued to any applicant that has not complied with the provisions of Sections 561 through 568 of this title and does not hold a current license issued by the Oklahoma Motor Vehicle Commission pursuant thereto. A separate manufacturer's or dealer's license shall be required for each separate county within which such manufacturer or dealer has an established place of business and upon payment of a license fee of Ten Dollars (\$10.00) there shall be assigned and issued to such manufacturer or dealer a Certificate of Registration and one license plate which shall be displayed upon each vehicle of such manufacturer or dealer when same is operated, driven, or displayed on any street, road, or highway, in the same manner as hereinbefore provided for vehicles owned by other persons. Such a manufacturer or dealer in new vehicles may obtain as many additional license plates as may be desired, upon the payment of the sum of Ten Dollars (\$10.00) for each additional plate; provided that no such license plate issued to any manufacturer or dealer shall be used or displayed upon any secondhand or used vehicle, or upon any new vehicle which is used for a service car, or private use, or for hire. Any person, with consent of the dealer, may operate a motor vehicle, with the dealer's tag affixed, while contemplating purchase, so long as this intent is limited to a consecutive seventy-two-hour period, or a weekend. An individual holding a valid salesman's license issued by the Oklahoma Motor Vehicle Commission shall not be subject to this limitation. If such person also buys and sells used vehicles, he shall, after obtaining his new motor vehicle dealer's license from the Oklahoma Motor Vehicle Commission, also obtain a used motor vehicle dealer's license, from the Used Motor Vehicle and Parts Commission, the cost of which shall be as prescribed in Section 1101 et seq. of this title.

(Note: Subsequent legislation has raised the D-Tag fees to \$16.00 each)

- B. Each dealer and used motor vehicle dealer shall keep a record of the purchase and sale of each motor vehicle he buys or sells, which shall show the name of the seller or buyer as the case may be, and a complete description of the vehicle purchased or sold, and such other information as the Commission may prescribe.
- C. Application for manufacturer's or dealer's license must show that such dealer or manufacturer has not violated any of the provisions of this section; and such license shall be nonassignable; and any such license may be suspended temporarily or revoked by the Commission for violation or failure to comply with this section, provided, the holder of such license shall be given ten (10) days' notice of hearing to suspend or cancel such license. If any such person subject to any of the licenses required in this section fails to obtain it when due, a penalty of twenty-five cents (\$0.25) per day on each such license shall be charged in the same manner as is now provided on delinquent motor vehicle registrations, and after a period of thirty (30) days such penalty shall be equal to the

license fee. It shall be the duty of every person licensed to sell new or used motor vehicles to advise each purchaser in writing about his title requirements and payment of any taxes due. Each used motor vehicle must display a proper Oklahoma license plate or a used dealer's license plate. Dealers failing to comply with provisions of this section shall be responsible for all taxes due on such sales or on such vehicles.

- D. Every person engaged in the business of transporting and delivering new or used vehicles by driving, either singly or by towbar, saddle mount or full mount method, engaging in drive-way operations as defined in Section 3 of Title 85 of the Oklahoma Statutes, or any combination thereof, from the manufacturer or shipper to the dealer or consignee and using the public highways of this state shall file with the Commission a verified application for in-transit license plates to identify such vehicles. The application shall provide for a general distinctive number for all vehicles so transported. Upon payment of a license fee of Ten Dollars (\$10.00) there shall be assigned and issued to such person one in-transit plate. Such in-transit plate shall be used by such person only on vehicles when so transported. Such person may obtain as many additional in-transit plates as desired upon payment of a fee of Ten Dollars (\$10.00) for each additional plate. Provided, a used motor vehicle dealer shall use a used dealer license plate in lieu of the in-transit license plate for transporting a used motor vehicle and, in such cases, shall be exempt from making application for an in-transit license plate. Provided further, only a person who possesses a certificate issued by the Interstate Commerce Commission or the Corporation Commission to engage in the business of transporting and delivering manufactured homes for hire may use the in-transit license plates obtained by them as herein authorized for transporting new or used manufactured homes from one location to another location within Oklahoma or from a point in another state to a point in this state. Nothing contained in this section shall relieve any person from the payment of license fees otherwise provided by law. When the Commission deems it advisable and in the public interest, it may require the holder of any in-transit license, or any person making application therefor, to file a proper surety bond in any amount it deems proper, not to exceed Ten Thousand Dollars (\$10,000.00).
- E. The Oklahoma Tax Commission shall issue dealer licenses to new and used manufactured home dealers, new and used travel trailer dealers and new and used commercial trailer dealers.
- F. All licenses provided for in this section shall expire on December 31 of each year.

Damage Disclosure to Purchasers of New Motor Vehicles
Title 47 Chapter 74 Section 1112.1

- A. Every dealer shall disclose in writing to the purchaser of a new or previously unregistered motor vehicle, prior to entering into a contract for the vehicle or, if unknown at that time, prior to delivery of the vehicle, the following information:
1. Any material damage known by the dealer to have been sustained by the vehicle and subsequently repaired; and
 2. Any damage, including but not limited to material damage or flood damage, known by the dealer to have been sustained by the vehicle and not repaired.
- B. For purposes of this section, "material damage" means damage sustained by a motor vehicle as follows:
1. The damage required repairs having a value, including parts and labor calculated at the repairer's cost, exceeding three percent (3%) of the manufacturer's suggested retail price of the vehicle or Five Hundred Dollars (\$500.00), whichever is greater. The replacement of damaged or stolen components, excluding the cost of repainting or refinishing those components, if replaced by the installation of new original manufacturer's equipment, parts, or accessories that are bolted or otherwise attached as a unit to the vehicle, including but not limited to, the hood, bumpers, fenders, mechanical parts, instrument panels, moldings, glass, tires, wheels, and electronic instruments, shall be excluded from damage calculation, except that any damage having a cumulative repair or replacement value which exceeds ten percent (10%) of the manufacturer's suggested retail price of the vehicle shall be deemed material damage;
 2. The damage was to the frame or drive train of the motor vehicle;
 3. The damage occurred in connection with a theft of the entire vehicle; or
 4. The damage was to the suspension of the vehicle requiring repairs other than wheel balancing or alignment.

OKLAHOMA LEMON LAW
Title 15 Section 901

A. As used in this section:

1. "**Consumer**" means the purchaser, other than for purposes of resale, of a motor vehicle, any person to whom such motor vehicle is transferred during the duration of an express warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations of the warranty; and
2. "**Motor vehicle**" means any motor-driven vehicle required to be registered under the Oklahoma Motor Vehicle License and Registration Act, excluding vehicles above ten thousand (10,000) pounds gross vehicle weight and the living facilities of motor homes.

B. For the purposes of this act, if a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity, directly in writing, to the manufacturer, its agent or its authorized dealer during the term of such express warranties or during the period of one (1) year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, the manufacturer, its agent or its authorized dealer shall make such repairs as are necessary to conform the vehicle to such express warranties, notwithstanding the fact that such repairs are made after the expiration of such term or such one-year period.

C. If the manufacturer, or its agents or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall either accept a return of the vehicle from the consumer and refund to the consumer the full purchase price including all taxes, license, registration fees and all similar governmental fees, excluding interest, less a reasonable allowance for the consumer's use of the vehicle or replace the motor vehicle with a comparable new model acceptable to the consumer. If a comparable model cannot be agreed upon, the purchase price shall be refunded less a reasonable allowance for the consumer's use of the vehicle. Refunds shall be made to the consumer, and lienholder if any, as their interests may appear. A reasonable allowance for use shall be the purchase or lease price of the new motor vehicle multiplied by a fraction having as the denominator one hundred twenty thousand (120,000) miles and having as the numerator the miles directly attributable to use by the consumer beyond fifteen thousand (15,000) miles. It shall be an affirmative defense to any claim under this act:

1. That an alleged nonconformity does not substantially impair such use and value;
or
2. That a nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of a motor vehicle.

In no event shall the presumption described in this subsection apply against a manufacturer unless the manufacturer has received prior direct written notification from or on behalf of the consumer and has had an opportunity to cure the defect alleged.

- D. It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties, if:
1. The same nonconformity has been subject to repair four or more times by the manufacturer or its agents or authorized dealers within the express warranty term or during the period of one (1) year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but such nonconformity continues to exist; or
 2. The vehicle is out of service by reason of repair for a cumulative total of thirty (30) business days during such term or during such period, whichever is the earlier date.

The term of an express warranty, such one-year period and such thirty-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood or other natural disaster.

- E. Nothing in this act shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.
- F. If a manufacturer has established an informal dispute settlement procedure which complies in all respects with the provisions of Title 16, Code of Federal Regulations, Part 703, as from time to time amended, the provisions of subsection C of this section concerning refunds or replacement shall not apply to any consumer who has not first resorted to such procedure.
- G. The Oklahoma Attorney General shall prepare and place on the Attorney General's website a written statement explaining the rights of a purchaser under this law. The dealer shall provide to the purchaser at the time of the original purchase of a new motor vehicle the written statement prepared by the Attorney General.
- H. Vehicles returned pursuant to the provisions of this act may not be resold in the state unless:
1. The manufacturer provides the same express warranty the manufacturer provided the original purchaser, except that the term of the warranty need only last for twelve thousand (12,000) miles or twelve (12) months after the date of resale, whichever is earlier; or
 2. The manufacturer, through its licensed dealer, provides the consumer with a written statement on a separate piece of paper that clearly discloses the reason or reasons the vehicle was reacquired by the manufacturer.
- I. Notwithstanding the provisions of subsection H of the section, returned vehicles shall not be resold if a new motor vehicle has been returned pursuant to the provisions of this act or a similar statute in another state because of nonconformity resulting in complete failure of the braking or steering system likely to cause death or serious bodily injury if the vehicle is driven.
- J. In any civil action pursuant to this section wherein the consumer is the prevailing party in the civil action, the consumer shall recover all costs and reasonable attorney fees as determined by the court.

Oklahoma Lemon Law (continued) Title 15 Section 901.1

Any manufacturer who reacquires or assists a dealer or lienholder to reacquire a motor vehicle registered in this state, prior to any sale, lease, or transfer of the vehicle in this state, or prior to exporting the vehicle to another state for sale, lease, or transfer if the vehicle was registered in this state and reacquired pursuant to this law shall:

1. Cause the vehicle to be retitled in the name of the manufacturer; and
2. Request the Oklahoma Tax Commission to brand the certificate of title with the notation "Lemon Law Buyback".

Additional Charges – Documentary Fees Title 14A Consumer Credit Code Article 2 Part 2 Section 2-202

SUMMARY: *Language addressing documentary fees in consumer credit contracts allows the **recovery of costs** in processing applications. The language does not set a specific amount that can be charged; so the Department of Consumer Credit, if asked, will look at doc fees on a case-by-case basis. You must be able to justify your charges if ever questioned. The specific language of the applicable parts of the statute is as follows:*

1. In addition to the credit service charge permitted by this part, a seller may contract for and receive the following additional charges in connection with a consumer credit sale:
 - (d) charges to recover the costs associated with processing applications, including but not limited to cost of services such as credit reports and credit investigations.

Laws governing the Used Motor Vehicle and Parts Commission can be found in: Oklahoma Statutes Title 47 Sections 581 through 588

Administrative Rules of the Used Motor Vehicle and Parts Commission can be found either through the Secretary of State, Office of Administrative Rules Title 765, or on the Used Motor Vehicle and Parts Commission website www.umvpc.state.ok.us.