

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2244 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Mike Dobrinski _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2244

By: Dobrinski

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; defining terms; authorizing dealer management system providers perform certain actions; prohibiting dealer management system providers from certain actions; making conflicting term or condition of contracts void and unenforceable; requiring certain actions of authorized integrators; allowing dealers to withdraw, revoke or amend certain express written authorization under certain circumstances; requiring certain obligations to secure and prevent unauthorized access to certain information; stating certain parties not liable for certain actions; requiring indemnification for certain claims; confining certain judgments to operations of this act directly involved in the controversy in which judgment is rendered; requiring manufacturers to allow new motor vehicle dealers to make certain offers to consumers; making certain exceptions; amending 47 O.S. 2021, Section 562, which relates to definitions; modifying definitions; defining terms; amending 47 O.S. 2021, Section 564, which relates to licenses; disallowing certain authorization; making certain exception; amending 47 O.S. 2021, Section 565, as last amended by Section 3, Chapter 192, O.S.L. 2022 (47 O.S. Supp. 2022, Section 565), which relates to denial, revocation, or suspension of license; modifying entity subject to license denial, revocation, suspension, or fine; modifying reasons for license denial, revocation, suspension, or punishment by fine; prohibiting certain standards to measure performance; requiring certain vehicles be offered at same price; requiring

1 certain reimbursement for rental cars; making certain
2 exception; requiring new vehicles be distributed in
3 certain manner; limiting dealers to one part or labor
4 rate request per year; providing for certain
5 calculation; providing for exclusions for certain
6 rate calculation; modifying reasons for certain
7 rebuttal; allowing certain written request; allowing
8 certain adjustments; requiring certain written
9 notice; prohibiting certain recovery of costs;
10 prohibiting factory denial of certain claims and
11 implementation of certain charge-backs; requiring
12 certain documentation and written attestation;
13 providing for certain compensation calculation;
14 requiring certain method for used vehicle
15 calculations; allowing factory to direct dealer in
16 certain manner and method; requiring certain
17 reimbursement claims be subject to certain
18 limitations and requirements; placing certain limit
19 on total compensation; disallowing certain remedy
20 combinations; disallowing the use of certain
21 agreements; making certain exception; providing for
22 certain violation; allowing for certain construction
23 or renovation; providing certain rebuttable
24 presumption; prohibiting factories from changing
certain plans or systems; limiting license for
distribution; amending 47 O.S. 2021, Section 565.1,
which relates to succession dealerships; defining
term; clarifying language; requiring adherence to
certain agreement; requiring certain changes be in
compliance with existing law; amending 47 O.S. 2021,
Section 565.2, which relates to termination,
cancellation, or nonrenewal of franchise; requiring
certain compensation; amending 47 O.S. 2021, Section
565.3, which relates to notice of proposed sale;
requiring use of certain standards; requiring certain
changes be in compliance with existing law; limiting
certain evaluations; deleting certain protest right;
amending 47 O.S. 2021, Section 578.1, which relates
to procedures for relocation or establishment;
modifying definition; amending 47 O.S. 2021, Section
580.2, which relates to insurance coverage on loan
vehicles; defining term; making certain liability
policy coverage distinction; providing for
noncodification; providing for codification; and
providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 564.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Access fee" means a requirement to pay money for access to protected dealer data.

2. "Authorized integrator" means a person with which a dealer has a contractual relationship or to which the dealer otherwise gives express written authorization to have access to protected dealer data stored on a dealer data system or to write protected dealer data to the dealer data system for the purpose of performing a specific function for the dealer.

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

4. "Dealer management system provider" means a person that for compensation maintains and provides access to a dealer data system in which a dealer stores protected dealer data.

5. "Protected dealer data" means:

- a. personal data or financial data about a consumer that a dealer generated or that the consumer provided to

1 the dealer that is not otherwise publicly available
2 and which the consumer has not otherwise provided
3 consent or acknowledgment permitting his or her
4 information may be shared, and

- 5 b. any other personal or financial data in connection
6 with the dealer's daily business operations to which a
7 dealer has rights in a dealer data system.

8 6. "Authorized integrator" and "dealer management system
9 provider" do not include:

- 10 a. a manufacturer, distributor or importer or any entity
11 that is a subsidiary or affiliate of, or acts on
12 behalf of, a manufacturer, distributor or importer, or
13 b. a governmental body or other person that is acting in
14 accordance with federal, state or local law or a valid
15 court order.

16 B. A dealer management system provider may:

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

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

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

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

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

12 2. Restricting a dealer or an authorized integrator from
13 sharing protected dealer data or writing data or having access to a
14 dealer data system. Examples of restrictions this paragraph does
15 not permit include, but are not limited to:

16 a. limits on the scope or nature of protected dealer data
17 to which a dealer or authorized integrator has access
18 or may share or write to a dealer data system, and

19 b. a requirement for a dealer or authorized integrator to
20 provide sensitive or confidential business information
21 or information that a dealer or authorized integrator
22 uses for competitive purposes in return for access to
23 protected dealer data or an authorization to share or
24 write protected dealer data to a dealer data system.

1 D. Except as otherwise provided in this section, any term or
2 condition of a contract with a dealer management system provider
3 that conflicts with the requirements set forth in subsection C of
4 this section is void and unenforceable to the extent of the
5 conflict.

6 E. 1. An authorized integrator shall:

7 a. obtain express written authorization from a dealer
8 before gaining access to, receiving, sharing, copying,
9 using, writing or transmitting protected dealer data,
10 and

11 b. comply with security standards in gaining access to,
12 receiving, sharing, copying, using, writing or
13 transmitting protected dealer data.

14 2. Allow a dealer to withdraw, revoke or amend any express
15 written authorization the dealer provides under subparagraph a of
16 paragraph 1 of this subsection:

17 a. at the dealer's sole discretion, if the dealer gives
18 30 days' prior notice to an authorized integrator, or

19 b. immediately, for good cause.

20 F. 1. This section does not prevent a dealer, a dealer
21 management system provider or an authorized integrator from
22 discharging the dealer's, dealer management system provider's or
23 authorized integrator's obligations under federal, state or local
24 law to secure and prevent unauthorized access to protected dealer

1 data, or from limiting the scope of the obligations, in accordance
2 with federal, state or local law.

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

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

20 4. An authorized integrator is not liable for any action that a
21 dealer takes directly with respect to securing or preventing
22 unauthorized access to protected dealer data, or for actions that
23 the dealer takes in appropriately following the authorized
24 integrator's written instructions for securing or preventing

1 unauthorized access to protected dealer data, to the extent that the
2 actions prevent the authorized integrator from meeting a legal
3 obligation to secure or prevent unauthorized access to protected
4 dealer data.

5 5. A manufacturer, distributor or importer or any entity that
6 is a subsidiary or affiliate of, or acts on behalf of, a
7 manufacturer, distributor or importer is not liable for any action
8 that a dealer, dealer management system provider, authorized
9 integrator, or other third party takes directly with respect to
10 securing or preventing unauthorized access to protected dealer data,
11 or for actions that an authorized integrator, dealer management
12 system provider, or other third party takes in appropriately
13 following the dealer's written instructions for securing or
14 preventing unauthorized access to protected dealer data.

15 6. Notwithstanding any other agreement, an authorized
16 integrator shall indemnify and hold the new motor vehicle dealer
17 harmless from any third-party claims asserted against or damages
18 incurred by the new motor vehicle dealer to the extent caused by
19 access to, use of, or disclosure of consumer data in violation of
20 this section.

21 7. Notwithstanding any other agreement, a manufacturer,
22 distributor or importer or any entity that is a subsidiary or
23 affiliate of, or acts on behalf of, a manufacturer, distributor or
24 importer shall indemnify the dealer for any third-party claims

1 asserted against or damages incurred by the dealer to the extent the
2 claims or damages are caused by the access to and unlawful
3 disclosure of protected dealer data resulting from a breach caused
4 by the manufacturer or distributor or a third party to which the
5 manufacturer or distributor has provided the protected dealer data
6 in violation of this section, the written consent granted by the
7 dealer, or other applicable state or federal law.

8 SECTION 2. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 564.4 of Title 47, unless there
10 is created a duplication in numbering, reads as follows:

11 If any part or provision of this act or the application thereof
12 to any person or circumstance be adjudged invalid by any court of
13 competent jurisdiction, such judgment shall be confined in its
14 operation to the part, provision, or application directly involved
15 in the controversy in which such judgment shall have been rendered
16 and shall not affect or impair the validity of the remainder of this
17 act or the application thereof to other persons or circumstances.

18 SECTION 3. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 565.4 of Title 47, unless there
20 is created a duplication in numbering, reads as follows:

21 Any manufacturer or distributor who has new motor vehicle sales
22 and service contracts with new motor vehicles dealers shall allow
23 its new motor vehicle dealers to offer consumers any remote software
24 upgrade or change to vehicle functions and features to a new motor

1 vehicle which is of a line-make the new motor vehicle dealer holds
2 an active sales and service contract for, at the same price and for
3 a reasonable profit as any offered to consumers by the manufacturer
4 or distributor, and such upgrade or change shall be available for an
5 authorized new motor vehicle dealer to offer to consumers at any
6 time during the life cycle of the vehicle, provided the same
7 continues to be made available and offered to consumers by the
8 manufacturer or distributor. This section does not apply to remote
9 software upgrades or changes related solely to the safety, cyber
10 security, or recall of the new motor vehicle.

11 SECTION 4. AMENDATORY 47 O.S. 2021, Section 562, is
12 amended to read as follows:

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

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

21 a. recreational vehicles, as defined in the Recreational
22 Vehicle Franchise Act, or
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1 b. all-terrain vehicles, utility vehicles, and
2 motorcycles used exclusively for off-road use which
3 are sold by a retail implement dealer;

4 2. "New motor vehicle dealer" means any person, firm,
5 association, corporation or trust not excluded by this paragraph who
6 sells, offers for sale, advertises to sell, leases or displays new
7 motor vehicles and holds a bona fide contract or franchise in effect
8 with a manufacturer or distributor authorized by the manufacturer to
9 make predelivery preparation of such vehicles sold to purchasers and
10 to perform post-sale work pursuant to the manufacturer's or
11 distributor's warranty. As used herein, "authorized predelivery
12 preparation" means the rendition by the dealer of services and
13 safety adjustments on each new motor vehicle in accordance with the
14 procedure and safety standards required by the manufacturer of the
15 vehicle to be made before its delivery to the purchaser.

16 "Performance of authorized post-sale work pursuant to the warranty",
17 as used herein, means the rendition of services which are required
18 by the terms of the warranty that stands extended to the vehicle at
19 the time of its sale and are to be made in accordance with the
20 safety standards prescribed by the manufacturer. The term includes
21 premises or facilities at which a person engages only in the repair
22 of motor vehicles if repairs are performed pursuant to the terms of
23 a franchise and motor vehicle manufacturer's warranty. ~~However, the~~
24 ~~term shall not include premises or facilities at which a new motor~~

1 ~~vehicle dealer or dealers within the area of responsibility of such~~
2 ~~dealer or dealers as defined in the manufacturer's franchise~~
3 ~~agreement of such dealer or dealers performs motor vehicle repairs~~
4 ~~pursuant to the terms of a franchise and motor vehicle~~
5 ~~manufacturer's warranty.~~ For the purpose of Sections 561 through

6 567, 572, 578.1, 579 and 579.1 of this title, the terms "new motor
7 vehicle dealer" and "new motor vehicle dealership" shall be
8 synonymous. The term "new motor vehicle dealer" does not include:

- 9 a. receivers, trustees, administrators, executors,
10 guardians or other persons appointed by or acting
11 under judgment or order of any court,
- 12 b. public officers while performing or in operation of
13 their duties, ~~or~~
- 14 c. employees of persons, corporations or associations
15 enumerated in subparagraph a of this paragraph when
16 engaged in the specific performance of their duties as
17 such ~~employee~~ employees, or
- 18 d. a powersports vehicle dealer;

19 3. "Motor vehicle salesperson" means any person who, for gain
20 or compensation of any kind, either directly or indirectly,
21 regularly or occasionally, by any form of agreement or arrangement,
22 sells or negotiates for the sale, lease, or conveyance or arranges
23 the financing of any new motor vehicle ~~for~~ as an employee of any new
24 motor vehicle dealer to any one or more third parties;

1 4. "Commission" means the Oklahoma Motor Vehicle Commission;

2 5. "Manufacturer" means any person, firm, association,
3 corporation or trust, resident or nonresident, ~~who~~ that manufactures
4 or assembles new and unused motor vehicles or ~~who~~ that engages in
5 the fabrication or assembly of motorized vehicles of a type required
6 to be registered in the State of Oklahoma;

7 6. "Distributor" means any person, firm, association,
8 corporation or trust, resident or nonresident, ~~who~~ that, being
9 authorized by the original manufacturer, in whole or in part sells
10 or distributes new and unused motor vehicles to new motor vehicle
11 dealers, or ~~who~~ that maintains distributor representatives;

12 7. "Factory branch" means any branch office maintained by a
13 person, firm, association, corporation or trust ~~who~~ that
14 manufactures or assembles motor vehicles for the sale of motor
15 vehicles to distributors, or for the sale of motor vehicles to new
16 motor vehicle dealers, or for directing or supervising, in whole or
17 in part, its representatives;

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

21 9. "Factory representative" means any officer or agent engaged
22 as a representative of a manufacturer of motor vehicles or by a
23 factory branch, for the purpose of making or promoting the sale of
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1 its motor vehicles, or for supervising or contacting its dealers or
2 prospective dealers;

3 10. "Distributor representative" means any person, firm,
4 association, corporation or trust and each officer and employee
5 thereof engaged as a representative of a distributor or distributor
6 branch of motor vehicles, for the purpose of making or promoting the
7 sale of its motor vehicles, or for supervising or contacting its
8 dealers or prospective dealers;

9 11. "Franchise" means any contract or agreement between a new
10 motor vehicle dealer and a manufacturer of a new motor vehicle or
11 its distributor or factory branch by which the new motor vehicle
12 dealer is authorized to engage in the ~~business of selling any~~
13 ~~specified make or makes of new motor vehicles~~ activities of a new
14 motor vehicle dealer as defined by this section;

15 12. "New or unused motor vehicle" means a vehicle which is in
16 the possession of the manufacturer or distributor or has been sold
17 only to the holder of a valid ~~selling agreement,~~ franchise ~~or~~
18 ~~contract,~~ granted by the manufacturer or distributor for the sale of
19 that make of new vehicle so long as the manufacturer's statement of
20 origin has not been assigned to anyone other than a licensed
21 franchised new motor vehicle dealer of the same line-make;

22 13. "Area of responsibility" means the geographical area, as
23 designated by the manufacturer, factory branch, factory
24 representative, distributor, distributor branch or distributor

1 representative, in which the new motor vehicle dealer is held
2 responsible for the promotion and development of sales and rendering
3 of service for the make of motor vehicle for which the new motor
4 vehicle dealer holds a franchise or selling agreement;

5 14. "Off premises" means at a location other than the address
6 designated on the new motor vehicle dealer's license;

7 15. "Sponsoring entity" means any person, firm, association,
8 corporation or trust which has control, either permanently or
9 temporarily, over the real property upon which the ~~off-premise~~ off-
10 premises sale or display is conducted;

11 16. "Product" means new motor vehicles and new motor vehicle
12 parts;

13 17. "Service" means motor vehicle warranty repairs including
14 both parts and labor;

15 18. "Lead" means a consumer contact in response to a factory
16 program designed to generate interest in purchasing or leasing a new
17 motor vehicle;

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

19 20. "Factory" means a manufacturer, distributor, factory
20 branch, distributor branch, factory representative or distributor
21 representative, which manufactures or distributes vehicle products;

22 21. "Powersports vehicle" means motorcycles, scooters, mopeds,
23 all-terrain vehicles, and utility vehicles;

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

4 23. "Retail implement dealer" means a business engaged
5 primarily in the sale of farm tractors as defined in Section 1-118
6 of this title or implements of husbandry as defined in Section 1-125
7 of this title or a combination thereof;

8 24. "Consumer data" means nonpublic personal information as
9 such term is defined in 15 U.S.C., Section 6809(4) as it existed on
10 January 1, 2023, that is:

11 a. collected by a new motor vehicle dealer, and

12 b. provided by the new motor vehicle dealer directly to a
13 manufacturer or third party acting on behalf of a
14 manufacturer.

15 Such term shall not include the same or similar data obtained by
16 a manufacturer from any source other than the new motor vehicle
17 dealer or new motor vehicle dealer's data management system;

18 25. "Data management system" means a computer hardware or
19 software system that:

20 a. is owned, leased, or licensed by a new motor vehicle
21 dealer including a system or web-based applications,
22 computer software or computer hardware,

23 b. is located at the dealership or hosted remotely, and
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1 c. stores and provides access to consumer data collected
2 or stored by a new motor vehicle dealer.

3 Such term shall include, but shall not be limited to, dealership
4 management systems and customer relations management systems; and

5 26. "Fleet vehicle" means a new motor vehicle sold and titled
6 or registered to a business and used for business purposes only.

7 SECTION 5. AMENDATORY 47 O.S. 2021, Section 564, is
8 amended to read as follows:

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

20 Provided that, a new motor vehicle dealer's license shall authorize
21 one person to sell in the event such person shall be the owner of a
22 proprietorship, or the person designated as principal in the
23 dealer's franchise or the managing officer or one partner if no
24 principal person is named in the franchise. It is further provided

1 that a factory or an entity affiliated by any ownership or control
2 by the factory shall not be permitted to be licensed as a new motor
3 vehicle dealer in this state, except as provided by subparagraph b
4 of paragraph 12 of Section 565 of this title.

5 B. Applications for licenses required to be obtained under
6 provisions of Section 561 et seq. of this title shall be verified by
7 the oath or affirmation of the applicant and shall be on forms
8 prescribed by the Oklahoma Motor Vehicle Commission and furnished to
9 such applicants, and shall contain such information as the
10 Commission deems necessary to enable it to fully determine the
11 qualifications and eligibility of the several applicants to receive
12 the license or licenses applied for. The Commission shall require
13 in such application, or otherwise, information relating to the
14 applicant's financial standing, the applicant's business integrity,
15 whether the applicant has an established place of business and is
16 primarily engaged in the pursuit, avocation or business for which a
17 license, or licenses, are applied for, and whether the applicant is
18 able to properly conduct the business for which a license, or
19 licenses, are applied for, and such other pertinent information
20 consistent with the safeguarding of the public interest and the
21 public welfare. All such applications for license or licenses shall
22 be accompanied by the appropriate fee or fees therefor in accordance
23 with the schedule thereof hereinafter set out. In the event any
24 such application is denied and the license applied for is not

1 issued, the entire license fee shall be returned to the applicant.
2 All licenses issued under the provisions of Section 561 et seq. of
3 this title shall expire on June 30, following the date of issue and
4 shall be nontransferable. All applications for renewal of a license
5 for a new motor vehicle dealer, manufacturer, distributor or
6 manufacturer's or distributor's representative shall be submitted by
7 June 1 of each year, and such license or licenses will be issued by
8 July 1. If applications have not been made for renewal of licenses
9 at the times described in this subsection, it shall be illegal for
10 any person to represent himself or herself and act as a dealer,
11 manufacturer, distributor or manufacturer's or distributor's
12 representative. Motor license agents will be notified not to accept
13 such dealers' titles until such time as licenses have been issued by
14 the Commission.

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

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

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

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

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

8 5. For each powersports vehicle dealer, initial fee of Three
9 Hundred Dollars (\$300.00) per manufacturer represented by the dealer
10 at each location licensed, with an annual renewal fee of One Hundred
11 Dollars (\$100.00) per manufacturer represented by the dealer at each
12 location licensed per year.

13 D. The licenses issued to each new motor vehicle dealer,
14 manufacturer, distributor, factory branch, distributor branch or
15 representative, if a corporation, shall specify the location of the
16 factory, office or branch thereof. In case such location is
17 changed, the Commission may endorse the change of location on the
18 license without charge unless the change of address triggers a
19 relocation of a new motor vehicle dealer pursuant to the provisions
20 of Section 578.1 of this title. The license of each new motor
21 vehicle dealer shall be posted in a conspicuous place in the new
22 motor vehicle dealer's place or places of business.

23 Every motor vehicle factory representative or distributor
24 representative if an individual shall physically possess the license

1 when engaged in business, and shall display same upon request. The
2 name of the employer of such factory representative or distributor
3 representative shall be stated on the license and, in case of a
4 change of employer, the holder of such license shall immediately
5 mail same to the Commission for its endorsement of such change
6 thereon. The Commission shall endorse each such change of employer
7 on licenses for a fee of Ten Dollars (\$10.00).

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

11 SECTION 6. AMENDATORY 47 O.S. 2021, Section 565, as
12 amended by Section 3, Chapter 192, O.S.L. 2022 (47 O.S. Supp. 2022,
13 Section 565), is amended to read as follows:

14 Section 565. A. The Oklahoma Motor Vehicle Commission may deny
15 an application for a license, ~~or~~ revoke or suspend a license, or
16 impose a fine against any person or entity, not to exceed Ten
17 Thousand Dollars (\$10,000.00) ~~against a manufacturer or distributor~~
18 ~~or a fine not to exceed One Thousand Dollars (\$1,000.00) against a~~
19 ~~dealer~~ per occurrence, that violates any provision of Sections 561
20 through 567, 572, 578.1, 579 and 579.1 of this title ~~is violated~~ or
21 for any of the following reasons:

22 1. On satisfactory proof of unfitness of the applicant in any
23 application for any license under the provisions of Section 561 et
24 seq. of this title;

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

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

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

9 5. Being a new motor vehicle dealer who:

10 a. has required a purchaser of a new motor vehicle, as a
11 condition of sale and delivery thereof, to also
12 purchase special features, appliances, accessories or
13 equipment not desired or requested by the purchaser
14 and installed by the new motor vehicle dealer,

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

17 c. has committed any unlawful act which resulted in the
18 revocation of any similar license in another state,

19 d. has failed or refused to perform any written agreement
20 with any retail buyer involving the sale of a motor
21 vehicle,

22 e. has been convicted of a felony crime that
23 substantially relates to the occupation of a new motor
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1 vehicle dealer and poses a reasonable threat to public
2 safety,

3 f. has committed a fraudulent act in selling, purchasing
4 or otherwise dealing in new motor vehicles or has
5 misrepresented the terms and conditions of a sale,
6 purchase or contract for sale or purchase of a new
7 motor vehicle or any interest therein including an
8 option to purchase such vehicle,

9 g. has failed to meet or maintain the conditions and
10 requirements necessary to qualify for the issuance of
11 a license, or

12 h. completes any sale or transaction of an extended
13 service contract, extended maintenance plan, or
14 similar product using contract forms that do not
15 conspicuously disclose the identity of the service
16 contract provider;

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

19 7. Being a new motor vehicle dealer who:

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

21 b. does not provide for a suitable repair shop separate
22 from the display room with ample space to repair or
23 recondition one or more vehicles at the same time, and
24 which is staffed with properly trained and qualified

1 repair technicians and is equipped with such parts,
2 tools and equipment as may be requisite for the
3 servicing of motor vehicles in such a manner as to
4 make them comply with the safety laws of this state
5 and to properly fulfill the new motor vehicle dealer's
6 or manufacturer's warranty obligation,

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

15 d. employs a person without obtaining a certificate of
16 registration for the person, or utilizes the services
17 of used motor vehicle lots or dealers or other
18 unlicensed persons in connection with the sale of new
19 motor vehicles,

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

22 f. fails to order and stock a reasonable number of new
23 motor vehicles necessary to meet ~~customer~~ consumer
24 demand for each of the new motor vehicles included in

1 the new motor vehicle dealer's franchise agreement,
2 unless the new motor vehicles are not readily
3 available from the manufacturer or distributor due to
4 limited production;

5 8. Being a factory that has:

6 a. either induced or attempted to induce by means of
7 coercion or intimidation, any new motor vehicle
8 dealer:

9 (1) to accept delivery of any motor vehicle or
10 vehicles, parts or accessories therefor, or any
11 other commodities including advertising material
12 which shall not have been ordered by the new
13 motor vehicle dealer,

14 (2) to order or accept delivery of any motor vehicle
15 with special features, appliances, accessories or
16 equipment not included in the list price of the
17 motor vehicles as publicly advertised by the
18 manufacturer thereof, or

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

22 b. induced under threat or discrimination by the
23 withholding from delivery to a new motor vehicle
24 dealer certain models of motor vehicles, changing or

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

19 c. used a performance standard, sales objective or
20 program for measuring dealer performance that may have
21 a material effect on a dealer's right to vehicle
22 allocation; or payment under any incentive or
23 reimbursement program that is unfair, unreasonable,
24 inequitable and not based on accurate information,

1 d. used a performance standard for measuring sales or
2 service performance of any new vehicle dealer under
3 the terms of the franchise agreement which:

4 (1) is unfair, unreasonable, arbitrary
5 or inequitable; and

6 (2) does not consider the relevant and material local
7 and state or regional criteria, including
8 prevailing economic conditions affecting the
9 sales or service performance of a vehicle dealer
10 or any relevant and material data and facts
11 presented by the dealer in writing within thirty
12 (30) days of the manufacturer's written notice to
13 the dealer of its intention to cancel, terminate,
14 or not renew the dealer's franchise agreement.

15 e. failed or refused to sell, or offer for sale, new
16 motor vehicles to all of its authorized same line-make
17 franchised new motor vehicle dealers at the same price
18 for a comparably equipped motor vehicle, on the same
19 terms, with no differential in functionally available
20 discount, allowance, credit or bonus, except as
21 provided in subparagraph e of paragraph 9 of this
22 subsection.

23 f. failed to provide reasonable compensation to a new
24 motor vehicle dealer substantially equivalent to the

1 actual cost of providing a manufacturer required
2 loaner or rental vehicle to any consumer who is having
3 a vehicle serviced at the dealership. For purposes of
4 this paragraph, actual cost is the average cost in the
5 new motor vehicle dealer's region for the rental of a
6 substantially similar make and model as the vehicle
7 being serviced, or

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

16 9. Being a factory that:

17 a. has attempted to coerce or has coerced any new motor
18 vehicle dealer to enter into any agreement or to
19 cancel any agreement, or fails to act in good faith
20 and in a fair, equitable and nondiscriminatory manner;
21 or has directly or indirectly coerced, intimidated,
22 threatened or restrained any new motor vehicle dealer;
23 or has acted dishonestly, or has failed to act in
24

1 accordance with the reasonable standards of fair
2 dealing,

- 3 b. has failed to compensate its dealers for the work and
4 services they are required to perform in connection
5 with the dealer's delivery and preparation obligations
6 according to the agreements on file with the
7 Commission which must be found by the Commission to be
8 reasonable, or ~~fail~~ has failed to adequately and
9 fairly compensate its dealers for labor, parts and
10 other expenses incurred by such dealer to perform
11 under and comply with manufacturer's warranty
12 agreements, and recall repairs which shall include
13 diagnostic work as applicable and assistance requested
14 by a consumer whose vehicle was subjected to an over-
15 the-air or remote change, repair, or update to any
16 part, system, accessory, or function by the
17 manufacturer and performed by the dealer in order to
18 satisfy the consumer. Time allowances for the
19 diagnosis and performance of repair work shall be
20 reasonable and adequate for the work to be performed.
21 Adequate and fair compensation, which under this
22 provision shall be no less than the rates customarily
23 charged for retail consumer repairs as calculated
24 herein, for parts and/or labor for warranty and recall

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

1 orders submitted, dividing that amount by the new
2 motor vehicle dealer's total cost of the purchase of
3 those parts, subtracting one (1), and multiplying by
4 one hundred (100) to produce a percentage. The new
5 motor vehicle dealer shall calculate its retail labor
6 rate by dividing the amount of the new motor vehicle
7 dealer's total labor sales from the qualified repair
8 orders by the total labor hours charged for those
9 sales. When submitting repair orders to ~~calculate~~
10 establish a retail parts and/or labor rate, a new
11 motor vehicle dealer need not include ~~repair orders~~
12 repairs for:

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

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

11 A manufacturer or distributor may, not later than thirty
12 (30) days after submission, rebut that declared retail
13 parts and/or labor rate in writing by reasonably
14 substantiating that the rate is ~~inaccurate or unreasonable~~
15 ~~in light of the practices of all other franchised motor~~
16 ~~vehicle dealers in an economically similar part of the~~
17 ~~state offering the same line-make vehicles~~ not accurate or
18 is incomplete pursuant to the provisions of this section.
19 If the manufacturer or distributor determines from the new
20 motor vehicle dealer's set of repair orders submitted
21 pursuant to this section that the new motor vehicle
22 dealer's submission for a retail labor rate or retail parts
23 markup is substantially higher than the new motor vehicle
24 dealer's current warranty rates, the manufacturer or

1 distributor may request, in writing, within thirty (30)
2 days after the manufacturer's or distributor's receipt of
3 the new motor vehicle dealer's initial submission, all
4 repair orders closed within the period of thirty (30) days
5 immediately preceding, or thirty (30) days immediately
6 following, the set of repair orders initially submitted by
7 the new motor vehicle dealer. All time periods under this
8 section shall be suspended until the supplemental repair
9 orders are provided. If the manufacturer or distributor
10 requests supplemental repair orders, the manufacturer or
11 distributor may, within thirty (30) days after receiving
12 the supplemental repair orders and in accordance with the
13 formula described in this subsection, calculate a proposed
14 adjusted retail labor rate or retail parts markup, as
15 applicable, based upon any set of the qualified repair
16 orders submitted by the franchisee and following the
17 formula set forth herein to establish the rate. The retail
18 ~~rate~~ labor and parts rates shall go into effect thirty (30)
19 days following the approval by the manufacturer, ~~subject to~~
20 ~~audit of the submitted repair orders by the franchisor and~~
21 ~~a rebuttal of the declared rate as described above~~ or
22 distributor. If the declared rate is rebutted, the
23 manufacturer or distributor shall provide written notice
24 stating the reasons for the rebuttal, an explanation of the

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

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

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

- 22 (1) documentation to demonstrate the vehicle sale and
23 delivery as reported, including consumer name and
24 address, and

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

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

19 c. fails to compensate the new motor vehicle dealer for a
20 used motor vehicle:

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

1 vehicle dealer is authorized to perform recall
2 repairs,

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

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

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

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

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

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

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

8 For the purposes of division (5) of this subparagraph, the value
9 of a used vehicle shall be the average Black Book value for the
10 year, make, and model of the recalled vehicle.

11 A factory may direct the manner and method in which a new motor
12 vehicle dealer must demonstrate the inventory status of an affected
13 used motor vehicle to determine eligibility under this subparagraph;
14 provided, that the manner and method may not be unduly burdensome
15 and may not require information that is unduly burdensome to
16 provide.

17 All reimbursement claims made by new motor vehicle dealers
18 pursuant to this section for recall remedies or repairs, or for
19 compensation where no part or repair is reasonably available and the
20 vehicle is subject to a stop-sale or do-not-drive order, shall be
21 subject to the same limitations and requirements as a warranty
22 reimbursement claim made under subparagraph b of this paragraph. In
23 the alternative, a manufacturer may compensate its franchised new
24 motor vehicle dealers under a national recall compensation program;

1 provided, the compensation under the program is equal to or greater
2 than that provided under division (5) of this subparagraph, or as
3 the manufacturer and new motor vehicle dealer otherwise agree.

4 Nothing in this section shall require a factory to provide total
5 compensation to a new motor vehicle dealer which would exceed the
6 total average Black Book value of the affected used motor vehicle as
7 originally determined under division (5) of this subparagraph.

8 Any remedy provided to a new motor vehicle dealer under this
9 subparagraph is exclusive and may not be combined with any other
10 state or federal compensation remedy.

11 d. unreasonably fails or refuses to offer to its same
12 line-make franchised dealers a reasonable supply and
13 mix of all models manufactured for that line-make, or
14 unreasonably requires a dealer to pay any extra fee,
15 purchase unreasonable advertising displays or other
16 materials, or enter into a separate agreement which
17 adversely alters the rights or obligations contained
18 within the new motor vehicle dealer's existing
19 franchise agreement or which waives any right the new
20 motor vehicle dealer as protected by Section 561 et
21 seq. of this title, or remodel, renovate, or
22 recondition the new motor vehicle dealer's existing
23 facilities as a prerequisite to receiving a model or
24 series of vehicles, except as may be necessary to sell

1 or service the model or series of vehicles as provided
2 by subparagraph e of this paragraph. It shall be a
3 violation of this section for new vehicle allocation
4 to be withheld subject to any requirement to purchase
5 or sell any number of used or off-lease vehicles. The
6 failure to deliver any such new motor vehicle shall
7 not be considered a violation of the section if the
8 failure is not arbitrary or is due to lack of
9 manufacturing capacity or to a strike or labor
10 difficulty, a shortage of materials, a freight embargo
11 or other cause over which the manufacturer has no
12 control. However, this subparagraph shall not apply
13 to recreational vehicles, ~~or~~ limited production model
14 vehicles, or a vehicle not advertised by the factory
15 for sale in this state,

16 d.

17 e. except as necessary to comply with a health or safety
18 law, or to comply with a technology requirement which
19 is necessary to sell or service a motor vehicle that
20 the franchised new motor vehicle dealer is authorized
21 or licensed by the franchisor to sell or service,
22 requires a new motor vehicle dealer to construct a new
23 facility or substantially renovate the new motor
24 vehicle dealer's existing facility unless the facility

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

1 construction or alteration was approved by the
2 manufacturer as a part of a facility upgrade program,
3 standard, or policy. For purposes of this subsection,
4 "substantially altered" means to perform an alteration
5 that substantially impacts the architectural features,
6 characteristics, or integrity of a structure or lot.
7 The term shall not include routine maintenance
8 reasonably necessary to maintain a dealership in
9 attractive condition. If a facility upgrade program,
10 standard, or policy under which the dealer completed a
11 facility construction or substantial alteration does
12 not contain a specific time period during which the
13 manufacturer or distributor shall provide payments or
14 benefits to a participating dealer, or the time frame
15 specified under the program is reduced or cancelled
16 prematurely in the unilateral discretion of the
17 manufacturer or distributor, the manufacturer or
18 distributor shall not deny the participating dealer
19 any payment or benefit under the terms of the program,
20 standard, or policy as it existed when the dealer
21 began to perform under the program, standard, or
22 policy for the balance of the ten-year period,
23 regardless of whether the manufacturer's or
24 distributor's program, standard, or policy has been

1 changed or canceled, unless the manufacturer and
2 dealer agree, in writing, to the change in payment or
3 benefit,

4 ~~e.~~

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

14 ~~f.~~

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

1 agreement automatically extinguishes if all of the
2 factory's franchises that operated from the location
3 that are the subject of the site-control agreement are
4 terminated by the factory as part of the
5 discontinuance of a product line, ~~or~~

6 ~~g.~~

7 h. refuses to pay, or claims reimbursement from, a new
8 motor vehicle dealer for sales, incentives or other
9 payments related to a motor vehicle sold by the new
10 motor vehicle dealer because the purchaser of the
11 motor vehicle exported or resold the motor vehicle in
12 violation of the policy of the factory unless the
13 factory can show that, at the time of the sale, the
14 new motor vehicle dealer knew or reasonably should
15 have known of the purchaser's intention to export or
16 resell the motor vehicle. There is a rebuttable
17 presumption that the new motor vehicle dealer did not
18 know or could not have known that the vehicle would be
19 exported if the vehicle is titled and registered in
20 any state of the United States, or

21 i. requires a new motor vehicle dealer to purchase goods
22 or services for the construction, renovation, or
23 improvement of the dealer's facility from a vendor
24 chosen by the factory if goods or services available

1 from other sources are of substantially similar
2 quality and design and comply with all applicable
3 laws; provided, however, that such goods are not
4 subject to the factory's intellectual property or
5 trademark rights and the new motor vehicle dealer has
6 received the factory's approval, which approval may
7 not be unreasonably withheld. Nothing in this
8 subparagraph may be construed to allow a new motor
9 vehicle dealer to impair or eliminate a factory's
10 intellectual property, trademark rights or trade dress
11 usage guidelines. Nothing in this section prohibits
12 the enforcement of a voluntary agreement between the
13 factory and the new motor vehicle dealer where
14 separate and valuable consideration has been offered
15 and accepted;

16 10. Being a factory that:

- 17 a. establishes a system of motor vehicle allocation or
18 distribution which is unfair, inequitable or
19 unreasonably discriminatory. Upon the request of any
20 new motor vehicle dealer franchised by it, a factory
21 shall disclose in writing to the new motor vehicle
22 dealer the basis upon which new motor vehicles are
23 allocated, scheduled and delivered among the new motor
24

1 vehicle dealers of the same line-make for that
2 factory, or

3 b. changes an established plan or system of motor vehicle
4 distribution. A new motor vehicle dealer franchise
5 agreement shall continue in full force and operation
6 notwithstanding a change, in whole or in part, of an
7 established plan or system of distribution of the
8 motor vehicles offered or previously offered for sale
9 under such franchise agreement. The appointment of a
10 new importer or distributor for motor vehicles offered
11 for sale under such franchise agreement shall be
12 deemed to be a change of an established plan or system
13 of distribution. The discontinuation of a line-make
14 shall not be deemed to be a change of an established
15 plan or system of motor vehicle distribution. The
16 creation of a line-make shall not be deemed to be a
17 change of an established plan or system of motor
18 vehicle distribution as long as the new line-make is
19 not selling the same, or substantially the same
20 vehicle or vehicles previously sold through another
21 line-make by new motor vehicle dealers with an active
22 franchise agreement for the other line-make in the
23 state if such new motor vehicle dealers are no longer
24 authorized to sell the comparable vehicle previously

1 sold through their line-make. Changing a vehicle's
2 powertrain is not sufficient to show it is
3 substantially different. Upon the occurrence of such
4 change, the manufacturer or distributor shall be
5 prohibited from obtaining a license to distribute
6 vehicles under the new plan or system of distribution
7 unless the manufacturer or distributor offers to each
8 new motor vehicle dealer who is a party to the
9 franchise agreement a new franchise agreement
10 containing substantially the same provisions which
11 were contained in the previous franchise agreement;

12 11. Being a factory that sells directly or indirectly new motor
13 vehicles to any retail consumer in the state except through a new
14 motor vehicle dealer holding a franchise for the line-make that
15 includes the new motor vehicle. This paragraph does not apply to
16 factory sales of new motor vehicles to its employees, family members
17 of employees, retirees and family members of retirees, not-for-
18 profit organizations or the federal, state or local governments.
19 The provisions of this paragraph shall not preclude a factory from
20 providing information to a consumer for the purpose of marketing or
21 facilitating a sale of a new motor vehicle or from establishing a
22 program to sell or offer to sell new motor vehicles through
23 participating dealers subject to the limitations contained in
24 paragraph 2 of Section 562 of this title;

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

2 (1) owns any ownership interest or has any financial
3 interest in a new motor vehicle dealer or any
4 person who sells products or services pursuant to
5 the ~~public~~ terms of the franchise agreement,

6 (2) operates or controls a new motor vehicle dealer,
7 or

8 (3) acts in the capacity of a new motor vehicle
9 dealer.

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

22 (2) This paragraph does not prohibit a factory from
23 owning, operating, controlling or acting in the
24 capacity of a new motor vehicle dealer for a

1 period not to exceed twelve (12) months during
2 the transition from one independent dealer to
3 another independent dealer if the dealership is
4 for sale at a reasonable price and on reasonable
5 terms and conditions to an independent qualified
6 buyer. On showing by a factory of good cause,
7 the Oklahoma Motor Vehicle Commission may extend
8 the time limit set forth above; extensions may be
9 granted for periods not to exceed twelve (12)
10 months.

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

15 (4) This paragraph does not prohibit a factory from
16 owning, directly or indirectly, a minority
17 interest in an entity that owns, operates or
18 controls new motor vehicle dealerships of the
19 same line-make franchised by the manufacturer,
20 provided that each of the following conditions
21 are met:

22 (a) all of the new motor vehicle dealerships
23 selling the motor vehicles of that
24

1 manufacturer in this state trade exclusively
2 in the line-make of that manufacturer,

3 (b) all of the franchise agreements of the
4 manufacturer confer rights on the dealer of
5 the line-make to develop and operate, within
6 a defined geographic territory or area, as
7 many dealership facilities as the dealer and
8 manufacturer shall agree are appropriate,

9 (c) at the time the manufacturer first acquires
10 an ownership interest or assumes operation,
11 the distance between any dealership thus
12 owned or operated and the nearest
13 unaffiliated new motor vehicle dealership
14 trading in the same line-make is not less
15 than seventy (70) miles,

16 (d) during any period in which the manufacturer
17 has such an ownership interest, the
18 manufacturer has no more than three
19 franchise agreements with new motor vehicle
20 dealers licensed by the Oklahoma Motor
21 Vehicle Commission to do business within the
22 state, and

23 (e) prior to January 1, 2000, the factory shall
24 have furnished or made available to

1 prospective new motor vehicle dealers an
2 offering-circular in accordance with the
3 Trade Regulation Rule on Franchising of the
4 Federal Trade Commission, and any guidelines
5 and exemptions issued thereunder, which
6 disclose the possibility that the factory
7 may from time to time seek to own or
8 acquire, directly or indirectly, ownership
9 interests in retail dealerships;

10 13. Being a factory which directly or indirectly makes
11 available for public disclosure any proprietary information provided
12 to the factory by a new motor vehicle dealer, other than in
13 composite form to new motor vehicle dealers in the same line-make or
14 in response to a subpoena or order of the Commission or a court.
15 Proprietary information includes, but is not limited to,
16 information:

- 17 a. derived from monthly financial statements provided to
18 the factory, and
- 19 b. regarding any aspect of the profitability of a
20 particular new motor vehicle dealer;

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

1 15. Being a factory which used the ~~customer~~ consumer list of a
2 new motor vehicle dealer for the purpose of unfairly competing with
3 dealers;

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

7 a. the facility and the proposed new location satisfies
8 or meets the written reasonable guidelines of the
9 factory. Reasonable guidelines do not include
10 exclusivity or site control unless agreed to as set
11 forth in subparagraphs e f and ~~g~~ g of paragraph 9 of
12 this subsection,

13 b. the proposed new location is within the area of
14 responsibility of the new motor vehicle dealer
15 pursuant to Section 578.1 of this title, and

16 c. the factory has sixty (60) days from receipt of the
17 new motor vehicle dealer's relocation request to
18 approve or deny the request. The failure to approve
19 or deny the request within the sixty-day time frame
20 shall constitute approval of the request;

21 17. Being a factory which prohibits a new motor vehicle dealer
22 from adding additional line-makes to its existing facility, if,
23 after adding the additional line-makes, the facility satisfies the
24 written reasonable capitalization standards and facility guidelines

1 of each factory. Reasonable facility guidelines do not include a
2 requirement to maintain exclusivity or site control unless agreed to
3 by the dealer as set forth in subparagraphs e f and f g of paragraph
4 9 of this subsection;

5 18. Being a factory that increases prices of new motor vehicles
6 which the new motor vehicle dealer had ordered for retail consumers
7 and notified the factory prior to the dealer's receipt of the
8 written official price increase notification. A sales contract
9 signed by a retail consumer accompanied with proof of order
10 submission to the factory shall constitute evidence of each such
11 order, provided that the vehicle is in fact delivered to the
12 ~~customer~~ consumer. Price differences applicable to new models or
13 series motor vehicles at the time of the introduction of new models
14 or series shall not be considered a price increase for purposes of
15 this paragraph. Price changes caused by any of the following shall
16 not be subject to the provisions of this paragraph:

- 17 a. the addition to a motor vehicle of required or
- 18 optional equipment pursuant to state or federal law,
- 19 b. revaluation of the United States dollar in the case of
- 20 foreign-made vehicles or components, or
- 21 c. an increase in transportation charges due to increased
- 22 rates imposed by common or contract carriers;

23 19. Being a factory that requires a new motor vehicle dealer to
24 participate monetarily in an advertising campaign or contest, or

1 purchase any promotional materials, showroom or other display
2 decoration or materials at the expense of the new motor vehicle
3 dealer without consent of the dealer, which consent shall not be
4 unreasonably withheld;

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

9 21. Being a factory that requires a new motor vehicle dealer to
10 sell, offer to sell or sell exclusively an extended service
11 contract, extended maintenance plan or similar product, such as gap
12 products offered, endorsed or sponsored by the factory by the
13 following means:

14 a. by an act or statement from the factory that will in
15 any manner adversely impact the new motor vehicle
16 dealer,

17 b. by measuring the new motor vehicle dealer's
18 performance under the franchise based on the sale of
19 extended service contracts, extended maintenance plans
20 or similar products offered, endorsed or sponsored by
21 the manufacturer or distributor.

22 B. Notwithstanding the terms of any franchise agreement, in the
23 event of a proposed sale or transfer of a dealership, the
24 manufacturer or distributor shall be permitted to exercise a right

1 of first refusal to acquire the assets or ownership interest of the
2 dealer of the new motor vehicle dealership, if such sale or transfer
3 is conditioned upon the manufacturer or dealer entering into a
4 dealer agreement with the proposed new owner or transferee, only if
5 all the following requirements are met:

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

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

13 3. The proposed sale or transfer ~~of the assets~~ of the
14 dealership does not involve the transfer or sale to a member or
15 members of the family of one or more dealer owners, or to a
16 qualified manager or a partnership or corporation controlled by such
17 persons; and

18 4. The factory agrees to pay the reasonable expenses, including
19 attorney fees which do not exceed the usual, customary and
20 reasonable fees charged for similar work done for other clients
21 incurred by the proposed new owner and transferee prior to the
22 exercise by the factory of its right of first refusal in negotiating
23 and implementing the contract for the proposed sale or transfer of
24 the dealership or dealership assets. Notwithstanding the foregoing,

1 no payment of expenses and attorney fees shall be required if the
2 proposed new dealer or transferee has not submitted or caused to be
3 submitted an accounting of those expenses within thirty (30) days of
4 receipt of the written request of the factory for such an
5 accounting. The accounting may be requested by a factory before
6 exercising its right of first refusal.

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

9 1. Business activities, including without limitation the
10 dealings with motor vehicle manufacturers and the representatives
11 and affiliates of motor vehicle manufacturers, of any person that is
12 primarily engaged in the business of short-term, not to exceed
13 twelve (12) months, rental of motor vehicles and industrial and
14 construction equipment and activities incidental to that business,
15 provided that:

16 a. any motor vehicle sold by that person is limited to
17 used motor vehicles that have been previously used
18 exclusively and regularly by that person in the
19 conduct of business and used motor vehicles traded in
20 on motor vehicles sold by that person,

21 b. warranty repairs performed by that person on motor
22 vehicles are limited to those motor vehicles that it
23 owns, previously owned or takes in trade, and
24

1 c. motor vehicle financing provided by that person to
2 retail consumers for motor vehicles is limited to used
3 vehicles sold by that person in the conduct of
4 business; or

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

7 D. As used in this section:

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

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

16 SECTION 7. AMENDATORY 47 O.S. 2021, Section 565.1, is
17 amended to read as follows:

18 Section 565.1 A. For the purposes of this section, "designated
19 successor" means a person who the new motor vehicle dealer has
20 designated to take over operation of the dealership or legal heir or
21 devisee under the will of a new motor vehicle dealer or under the
22 laws of descent and distribution of this state .

23 B. Notwithstanding the terms of any franchise agreement, and
24 subject to the following conditions contained in paragraphs 1

1 through 5 of this ~~section~~ subsection, any manufacturer or
2 distributor who prevents or refuses to honor the succession to the
3 operation of a dealership ~~by any legal heir or devisee under the~~
4 ~~will of a new motor vehicle dealer or under the laws of descent and~~
5 ~~distribution of this state,~~ a designated successor, without good
6 cause or good faith, as defined in this section, shall be subject to
7 the following procedure:

8 1. Within one hundred twenty (120) days after the death or
9 departure of the new motor vehicle dealer, the manufacturer shall
10 receive a written notice from ~~any legal heir or devisee~~ the
11 designated successor who intends to ~~establish a~~ become the successor
12 dealership operator. If timely notice is not so received, ~~then~~ this
13 paragraph shall not apply, and any succession shall be governed
14 solely by the terms of the franchise;

15 2. Within thirty (30) days of receipt of the ~~legal heir's or~~
16 ~~devisee's~~ designated successor's timely written notice, the
17 manufacturer may request, and the ~~legal heir or devisee~~ designated
18 successor shall, within a reasonable time, provide any information
19 which is reasonably necessary for the manufacturer to evaluate the
20 proposed successor dealer and dealership, including, ~~but not limited~~
21 ~~to,~~ applications, ~~proposals for facilities~~ and financing;

22 3. Within sixty (60) days of receipt of such information, the
23 manufacturer shall approve or disapprove the ~~proposed~~ designated
24 successor ~~dealership~~ dealer, and in case of disapproval shall

1 communicate in writing such disapproval and grounds for disapproval
2 to the ~~legal heir or devisee~~ designated successor;

3 4. Failure of the manufacturer to act in a timely manner with
4 respect to any time period described above shall constitute a waiver
5 of the manufacturer's right to disapprove the proposed succession;

6 5. Within ten (10) days of ~~its~~ the designated successor's
7 receipt of the manufacturer's notice of disapproval, the ~~legal heir~~
8 ~~or devisee~~ designated successor may file a protest of the
9 manufacturer's decision with the Oklahoma Motor Vehicle Commission
10 and request a hearing. Such hearing shall be heard in a
11 substantially similar manner as provided by Section 566 of this
12 title, except that the Commission shall render a final decision
13 within sixty (60) days of the filing of the protest. The
14 manufacturer shall have the burden of proof to show that its
15 disapproval was for a good cause and in good faith. A denial shall
16 not be for good cause and in good faith unless the factory
17 establishes that the ~~legal heir or devisee, or the legal heir or~~
18 ~~devisee's controlling executive management,~~ designated successor is
19 not of good moral character or fails to meet the written, reasonable
20 and uniformly applied requirements of the manufacturer or
21 distributor relating to financial qualifications, general business
22 experience, and other requirements relating to prospective
23 franchisees. However, a ~~legal heir that~~ designated successor who is
24 a family member and who is of good moral character in accordance

1 with ~~the factory's~~ reasonable factory qualifications and meets the
2 factory's financial qualifications may rely on controlling executive
3 management that is of good moral character and meets the factory's
4 qualifications for general business experience ~~and other~~
5 ~~requirements relating to prospective franchises.~~ Any denial of the
6 designated successor based upon a failure to agree to terms other
7 than those contained in the existing franchise agreement, related
8 addendums and agreements, and any written notice provided to the
9 existing dealer prior to the manufacturer's or distributor's receipt
10 of any written notice from the existing dealer of the proposed
11 transfer shall not be considered good cause for such denial.
12 However, any proposed change to the franchise pursuant to written
13 notice from the manufacturer or distributor, to be valid, shall be
14 in compliance with existing law. The disapproval by the
15 manufacturer shall be final if the ~~legal heir or devisee~~ designated
16 successor fails to file a timely protest of such disapproval. In
17 the event that the Commission finds that the manufacturer's
18 disapproval was not made for good cause, then it shall issue a final
19 order requiring the manufacturer to honor the successor designated
20 in the notice sent by the ~~legal heir or devisee~~ designated
21 successor. Notwithstanding anything to the contrary in this
22 section, a new motor vehicle dealer may designate any person as
23 successor by filing a written instrument pursuant to the franchise
24 with the manufacturer during the new motor vehicle dealer's

1 lifetime. In such a case, the written instrument and franchise
2 shall govern the dealership succession.

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 judgment or conviction in a court of competent
7 jurisdiction for any violation of the provisions of Sections 561
8 through 567, 572, 578.1, 579 and 579.1 of this title.

9 SECTION 8. AMENDATORY 47 O.S. 2021, Section 565.2, is
10 amended to read as follows:

11 Section 565.2 A. Irrespective of the terms, provisions or
12 conditions of any franchise, or the terms or provisions of any
13 waiver, no manufacturer shall terminate, cancel or fail to renew any
14 franchise with a licensed new motor vehicle dealer unless the
15 manufacturer has satisfied the notice requirements as provided in
16 this section and has good cause for cancellation, termination or
17 nonrenewal. The manufacturer shall not attempt to cancel or fail to
18 renew the franchise agreement of a new motor vehicle dealer in this
19 state unfairly and without just provocation or without due regard to
20 the equities of the dealer or without good faith as defined herein.
21 As used herein, "good faith" means the duty of each party to any
22 franchise agreement to act in a fair and equitable manner toward
23 each other, with freedom from coercion or intimidation or threats
24 thereof from each other.

1 B. Irrespective of the terms, provisions or conditions of any
2 franchise, or the terms or provisions of any waiver, good cause
3 shall exist for the purpose of a termination, cancellation, or
4 nonrenewal when:

5 1. The new motor vehicle dealer has failed to comply with a
6 provision of the franchise, which provision is both reasonable and
7 of material significance to the franchise relationship, or the new
8 motor vehicle dealer has failed to comply with reasonable
9 performance criteria for sales or service established by the
10 manufacturer, and the dealer has been notified by written notice
11 from the manufacturer; and

12 2. The new motor vehicle dealer has received written
13 notification of failure to comply with the manufacturer's reasonable
14 sales performance standards, capitalization requirements, facility
15 commitments, business-related equipment acquisitions or other such
16 remediable failings exclusive of those reasons enumerated in
17 paragraph 1 of subsection C of this section, and the new motor
18 vehicle dealer has been afforded a reasonable opportunity of not
19 less than six (6) months to comply with such a provision or
20 criteria.

21 C. Irrespective of the terms, provisions or conditions of any
22 franchise agreement prior to the termination, cancellation or
23 nonrenewal of any franchise, the manufacturer shall furnish
24 notification of such termination, cancellation or nonrenewal to the

1 new motor vehicle dealer and the Oklahoma Motor Vehicle Commission
2 as follows:

3 1. Not less than ninety (90) days prior to the effective date
4 of such termination, cancellation or nonrenewal unless for a cause
5 described in paragraph 2 of this subsection;

6 2. Not less than fifteen (15) days prior to the effective date
7 of such termination, cancellation or nonrenewal with respect to any
8 of the following:

9 a. insolvency of the new motor vehicle dealer, or the
10 filing of any petition by or against the new motor
11 vehicle dealer under any bankruptcy or receivership
12 law,

13 b. failure of the new motor vehicle dealer to conduct its
14 customary sales and service operations during its
15 customary business hours for seven (7) consecutive
16 business days, provided that such failure to conduct
17 business shall not be due to an act of God or
18 circumstances beyond the direct control of the new
19 motor vehicle dealer, or

20 c. conviction of the new motor vehicle dealer of any
21 felony which is punishable by imprisonment or a
22 violation of the Federal Odometer Act; and

23 3. Not less than one hundred eighty (180) days prior to the
24 effective date of such termination or cancellation where the

1 manufacturer or distributor is discontinuing the sale of the product
2 line.

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

9 D. Upon the affected new motor vehicle dealer's receipt of the
10 aforementioned notice of termination, cancellation or nonrenewal,
11 the new motor vehicle dealer shall have the right to file a protest
12 of such threatened termination, cancellation or nonrenewal with the
13 Commission within thirty (30) days and request a hearing. Such
14 hearing shall be held in accordance with the provisions of the
15 Administrative Procedures Act, Sections ~~301~~ 250 through ~~326~~ 323 of
16 Title 75 of the Oklahoma Statutes, to determine if the threatened
17 cancellation, termination or nonrenewal of the franchise has been
18 for good cause and if the factory has complied with its obligations
19 pursuant to subsections A, B and C of this section and the factory
20 shall have the burden of proof. If the Commission finds that the
21 threatened cancellation, termination or nonrenewal of the franchise
22 has not been for good cause or violates subsection A, B or C of this
23 section, then it shall issue a final order stating that the
24 threatened termination is wrongful. A factory shall have the right

1 to appeal such order. During the pendency of the hearing and after
2 the decision, the franchise shall remain in full force and effect,
3 including the right to transfer the franchise. If the Commission
4 finds that the threatened cancellation, termination or nonrenewal is
5 for good cause and does not violate subsection A, B or C of this
6 section, the new motor vehicle dealer shall have the right to an
7 appeal. During the pendency of the action, including the final
8 decision or appeal, the franchise shall remain in full force and
9 effect, including the right to transfer the franchise. If the new
10 motor vehicle dealer prevails in the threatened termination action,
11 the Commission shall award to the new motor vehicle dealer the
12 attorney fees and costs incurred to defend the action.

13 E. If the factory prevails in an action to terminate, cancel or
14 not renew any franchise, the new motor vehicle dealer shall be
15 allowed fair and reasonable compensation by the manufacturer for:

16 1. New current and previous model year vehicle inventory which
17 has been acquired from the manufacturer, and which is unused and has
18 not been damaged or altered while in the dealer's possession;

19 2. Supplies and parts which have been acquired from the
20 manufacturer, for the purpose of this section, limited to any and
21 all supplies and parts that are listed on the current parts price
22 sheet available to the dealer;

23

24

1 3. Equipment and furnishings, provided the new motor vehicle
2 dealer purchased them from the manufacturer or its approved sources;
3 and

4 4. Special tools, with such fair and reasonable compensation to
5 be paid by the manufacturer within ninety (90) days of the effective
6 date of the termination, cancellation or nonrenewal, provided the
7 new motor vehicle dealer has clear title to the inventory and other
8 items and is in a position to convey that title to the manufacturer.

9 a. For the purposes of paragraph 1 of this subsection,
10 fair and reasonable compensation shall be no less than
11 the net acquisition price of the vehicle paid by the
12 new motor vehicle dealer.

13 b. For the purposes of paragraphs 2, 3 and 4 of this
14 subsection, fair and reasonable compensation shall be
15 the net acquisition price paid by the new motor
16 vehicle dealer less a twenty-percent (20%) straight-
17 line depreciation for each year following the dealer's
18 acquisition of the supplies, parts, equipment,
19 furnishings and/or special tools.

20 F. If a factory prevails in an action to terminate, cancel or
21 not renew any franchise and the new motor vehicle dealer is leasing
22 the dealership facilities, the manufacturer shall pay a reasonable
23 rent to the lessor in accordance with and subject to the provisions
24

1 of subsection G of this section. Nothing in this section shall be
2 construed to relieve a dealer of its duty to mitigate damages.

3 G. 1. Such reasonable rental value shall be paid only to the
4 extent the dealership premises are recognized in the franchise and
5 only if they are:

6 a. used solely for performance in accordance with the
7 franchise. If the facility is used for the operation
8 of more than one franchise, the reasonable rent shall
9 be paid based upon the portion of the facility
10 utilized by the franchise being terminated, canceled
11 or nonrenewed, and

12 b. not substantially in excess of facilities recommended
13 by the manufacturer.

14 2. If the facilities are owned by the new motor vehicle dealer,
15 within ninety (90) days following the effective date of the
16 termination, cancellation or nonrenewal the manufacturer will
17 either:

18 a. locate a qualified purchaser who will offer to
19 purchase the dealership facilities at a reasonable
20 price,

21 b. locate a qualified lessee who will offer to lease the
22 premises for the remaining lease term at the rent set
23 forth in the lease, or

24

1 c. failing the foregoing, lease the dealership facilities
2 at a reasonable rental value for the portion of the
3 facility that is recognized in the franchise agreement
4 for one (1) year.

5 3. If the facilities are leased by the new motor vehicle
6 dealer, within ninety (90) days following the effective date of the
7 termination, cancellation or nonrenewal the manufacturer will
8 either:

- 9 a. locate a tenant or tenants satisfactory to the lessor,
10 who will sublet or assume the balance of the lease,
11 b. arrange with the lessor for the cancellation of the
12 lease without penalty to the dealer, or
13 c. failing the foregoing, lease the dealership facilities
14 at a reasonable rent for the portion of the facility
15 that is recognized in the franchise agreement for one
16 (1) year.

17 4. The manufacturer shall not be obligated to provide
18 assistance under this section if the new motor vehicle dealer:

- 19 a. fails to accept a bona fide offer from a prospective
20 purchaser, subleases or assignee,
21 b. refuses to execute a settlement agreement with the
22 lessor if such agreement with the lessor would be
23 without cost to the dealer, or
24

1 c. fails to make written request for assistance under
2 this section within ninety (90) days after the
3 effective date of the termination, cancellation or
4 nonrenewal.

5 5. The manufacturer shall be entitled to occupy and use any
6 space for which it pays rent required by this section.

7 H. In addition to the repurchase requirements set forth in
8 subsections E and G of this section, in the event the termination or
9 cancellation is the result of a discontinuance of a product line,
10 the manufacturer or distributor shall compensate the new motor
11 vehicle dealer in an amount equivalent to the fair market value of
12 the terminated franchise as of the date ~~of~~ immediately preceding the
13 manufacturer's or distributor's announcement or provide the new
14 motor vehicle dealer with a replacement franchise on substantially
15 similar terms and conditions as those offered to other same line-
16 make dealers. The dealer may immediately request payment under this
17 ~~provision~~ section following the announcement in exchange for
18 cancelling any further franchise rights, except payments owed to the
19 dealer in the ordinary course of business, or may request payment
20 under this ~~provision~~ section upon the final termination,
21 cancellation or nonrenewal of the franchise. In either case,
22 payment under this ~~provision~~ section shall be made not later than
23 ninety (90) days after the fair market value is determined. If the
24 factory and dealer cannot agree on the fair market value of the

1 terminated franchise or agree to a process to determine the fair
2 market value, then the factory and dealer shall utilize a neutral
3 ~~third party~~ third-party mediator to resolve the disagreement.

4 SECTION 9. AMENDATORY 47 O.S. 2021, Section 565.3, is
5 amended to read as follows:

6 Section 565.3 A. A franchised vehicle dealer proposing a sale,
7 transfer, or assignment of a franchise agreement or the business and
8 assets of a dealership or an interest in a dealership to another
9 person, hereinafter transferee, shall notify the manufacturer or
10 distributor whose vehicles the dealer is franchised to sell of the
11 proposed action of the dealer. The manufacturer or distributor may
12 make written request to the proposed transferee to submit completed
13 application forms and related information generally utilized by a
14 manufacturer to evaluate such a proposal and a copy of all
15 agreements related to the proposed sale, transfer, or assignment.

16 B. The approval by the manufacturer or distributor of the sale,
17 transfer, or assignment shall not be unreasonably withheld unless
18 the proposed transferee is not of good moral character or fails to
19 meet the written, reasonable, and uniformly applied requirements of
20 the manufacturer or distributor relating to prospective franchisees.
21 Approval of the transfer shall not be made contingent upon the
22 transferee meeting unreasonable facility requirements or performance
23 standards, ~~but may be made contingent upon the transferee meeting~~
24 ~~reasonable written requirements~~ different than those contained in

1 the transferor's franchise agreement and related addendum and
2 agreements, and any written notices provided to the existing dealer
3 prior to the manufacturer's or distributor's receipt of any written
4 notice from the existing dealer of the proposed transfer. However,
5 to be valid, any proposed change to the franchise pursuant to
6 written notice from the manufacturer or distributor shall be in
7 compliance with existing law. The burden of proof shall be upon the
8 manufacturer or distributor to show good cause existed to withhold
9 approval. The manufacturer or distributor that has made such a
10 determination shall send a letter by certified mail to the dealer
11 and the applicant of its refusal to approve the proposal, which
12 shall include a statement of the specific grounds for refusal,
13 within sixty (60) days after the later of:

14 1. Receipt by the manufacturer or distributor of the notice of
15 the proposed sale, transfer, or assignment; or

16 2. Receipt by the manufacturer or distributor of the
17 information requested from the proposed transferee pursuant to
18 subsection A of this section if the manufacturer or distributor has
19 requested such information within fifteen (15) days of receipt of
20 written notice of the proposed sale, transfer, or assignment.

21 C. Failure of the manufacturer or distributor to send its
22 notice of refusal pursuant to subsection B of this section shall
23 mean that the application for the proposed sale, transfer, or
24 assignment is approved.

1 D. If the proposed sale, transfer, or assignment is to an
2 existing owner's family member or other existing owner, the
3 manufacturer or distributor's evaluation of such proposal is limited
4 to the written, reasonable, and uniformly applied requirements of
5 the manufacturer or distributor relating to good moral character and
6 financial qualifications. Notwithstanding the provisions of this
7 subsection, a change in dealer operation shall be addressed pursuant
8 to the provisions of Section 565.1 of this title.

9 E. A dealer dealership or dealership owner receiving notice of
10 refusal of the sale, transfer, or assignment shall have the right to
11 file a protest with the Oklahoma Motor Vehicle Commission within
12 thirty (30) days of receipt of the refusal. ~~A dealer receiving~~
13 ~~notice that the sale, transfer or assignment is contingent upon the~~
14 ~~transferee meeting facility and/or performance standards shall have~~
15 ~~the right to file a protest with the Commission within thirty (30)~~
16 ~~days of receipt of the notice.~~ In the event a protest is filed, the
17 manufacturer or distributor shall have the burden of proof to
18 establish the proposed transferee or the proposed transferee's
19 controlling executive management is not of good moral character or
20 fails to meet the written reasonable and uniformly applied
21 requirements of the manufacturer or distributor relating to
22 prospective franchisees or that the facility requirements are not
23 ~~reasonable based on the reasons set forth in subparagraph d of~~

1 paragraph 9 of Section 565 of this title different than those
2 contained in the transferor's franchise agreement.

3 SECTION 10. AMENDATORY 47 O.S. 2021, Section 578.1, is
4 amended to read as follows:

5 Section 578.1 A. Notwithstanding the terms of a franchise and
6 notwithstanding the terms of a waiver, if a factory intends or
7 proposes to enter into a franchise to establish an additional new
8 motor vehicle dealer or to relocate an existing new motor vehicle
9 dealer within or into a relevant market area in which the same line-
10 make of motor vehicle is currently represented, the factory shall
11 provide at least sixty (60) days advance written notice to the
12 Commission and to each new motor vehicle dealer of the same line-
13 make in the relevant market area, of the intention of the factory to
14 establish an additional new motor vehicle dealer or to relocate an
15 existing new motor vehicle dealer within or into the relevant market
16 area. For purposes of this section, the "relevant market area"
17 means the area within a radius of fifteen (15) miles ~~of~~ around the
18 site of the proposed new motor vehicle dealership measured from the
19 property boundary of the primary dealership property. The notice
20 shall be sent by certified mail to each party and shall include the
21 following information:

22 1. The specific location at which the additional or relocated
23 new motor vehicle dealer will be established;

24

1 2. The date on or after which the additional or relocated new
2 motor vehicle dealer intends to commence business at the proposed
3 location;

4 3. The identity of all new motor vehicle dealers who are
5 franchised to sell the same line-make vehicles as the proposed new
6 motor vehicle dealer and who have licensed locations within the
7 relevant market area;

8 4. The names and addresses of the person intended to be
9 franchised as the proposed additional or relocated new motor vehicle
10 dealership, the principal investors in the proposed additional or
11 relocated new motor vehicle dealership, and the proposed dealer
12 operator of the proposed additional or relocated new motor vehicle
13 dealership; and

14 5. The specific grounds or reasons for the proposed
15 establishment of an additional new motor vehicle dealer or
16 relocation of an existing new motor vehicle dealer.

17 B. This section does not apply:

18 1. To the relocation of an existing new motor vehicle dealer
19 within the relevant market area of that dealer; provided, that the
20 relocation not be at a site within ten (10) miles of a licensed new
21 motor vehicle dealer for the same line-make of motor vehicle;

22 2. To a proposed additional new motor vehicle dealer which is
23 to be established at or within two (2) miles of a location at which
24 a former licensed new motor vehicle dealer for the same line-make of

1 new motor vehicle had ceased operating within the previous two (2)
2 years;

3 3. To the relocation of an existing new motor vehicle dealer
4 within two (2) miles of the existing site of the new motor vehicle
5 dealership; or

6 4. To the relocation of an existing new motor vehicle dealer if
7 the proposed site of the relocated new motor vehicle dealership is
8 farther away from all other new motor vehicle dealers of the same
9 line-make in that relevant market area.

10 C. Within thirty (30) days after receipt of the notice, or
11 within thirty (30) days after the end of an appeal procedure
12 provided by the factory, whichever is greater, a new motor vehicle
13 dealer so notified or entitled to notice may file a petition with
14 the Commission protesting the proposed establishment or relocation.
15 The petition shall contain a short statement setting forth the
16 reasons for the objection of the dealer to the proposed
17 establishment or relocation. Upon filing of a protest, the
18 Commission shall promptly notify the factory that a timely protest
19 has been filed and shall schedule a hearing, which shall be held
20 within one hundred twenty (120) days of the filing of a timely
21 protest. The factory shall not establish or relocate the new motor
22 vehicle dealer until the Commission has held a hearing and has
23 determined that there is good cause for permitting the proposed
24 establishment or relocation. When more than one protest is filed

1 against the establishment or relocation of the same dealer, the
2 Commission shall consolidate the hearings to expedite disposition of
3 the matter.

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

9 SECTION 11. AMENDATORY 47 O.S. 2021, Section 580.2, is
10 amended to read as follows:

11 Section 580.2 During the time a person is operating a motor
12 vehicle with the express or implied permission of ~~an authorized~~ a
13 new motor vehicle dealer, as defined in Section 562 of this title,
14 such person's motor vehicle liability policy shall have primary
15 coverage with the motor vehicle liability policy of the new motor
16 vehicle dealer having secondary coverage until the vehicle is
17 returned. As used herein, "motor vehicle liability policy" means
18 motor vehicle insurance against legal liability for the death,
19 injury, or disability of any human being, or for damage to real or
20 personal property. The motor vehicle liability policy of any person
21 who has been loaned a vehicle by a new motor vehicle dealer pursuant
22 to the terms of this section shall provide primary coverage for any
23 death or injury of any human being or for any real or personal
24 property damage, including damage to the loaned vehicle, with the

1 motor vehicle insurance policy of the new motor vehicle dealer
2 having secondary coverage for any death or injury of any human being
3 or for any real or personal property damage, including damage to the
4 loaned vehicle. The change in financial responsibility shall be
5 evidenced by a release signed by the person operating the vehicle
6 with the express or implied permission of the new motor vehicle
7 dealer with the release to be returned to the person upon the return
8 of the motor vehicle to the new motor vehicle dealer. The motor
9 vehicle liability policy of such person shall meet the minimum
10 financial responsibility requirements found in Section 7-324 of this
11 title.

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

15 SECTION 12. This act shall become effective November 1, 2023.

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