

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 59th Legislature (2023)

4   COMMITTEE SUBSTITUTE  
5   FOR  
6   HOUSE BILL NO. 2244

By: Dobrinski of the House

and

**Thompson (Roger)** of the  
Senate

7  
8  
9  
10                                   COMMITTEE SUBSTITUTE

11           An Act relating to motor vehicles; defining terms;  
12           authorizing dealer management system providers  
13           perform certain actions; prohibiting dealer  
14           management system providers from certain actions;  
15           making conflicting term or condition of contracts  
16           void and unenforceable; requiring certain actions of  
17           authorized integrators; allowing dealers to withdraw,  
18           revoke or amend certain express written authorization  
19           under certain circumstances; requiring certain  
20           obligations to secure and prevent unauthorized access  
21           to certain information; stating certain parties not  
22           liable for certain actions; requiring indemnification  
23           for certain claims; confining certain judgments to  
24           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;

1 modifying reasons for license denial, revocation,  
2 suspension, or punishment by fine; prohibiting  
3 certain standards to measure performance; requiring  
4 certain vehicles be offered at same price; requiring  
5 certain reimbursement for rental cars; making certain  
6 exception; requiring new vehicles be distributed in  
7 certain manner; limiting dealers to one part or labor  
8 rate request per year; providing for certain  
9 calculation; providing for exclusions for certain  
10 rate calculation; modifying reasons for certain  
11 rebuttal; allowing certain written request; allowing  
12 certain adjustments; requiring certain written  
13 notice; prohibiting certain recovery of costs;  
14 prohibiting factory denial of certain claims and  
15 implementation of certain charge-backs; requiring  
16 certain documentation and written attestation;  
17 providing for certain compensation calculation;  
18 requiring certain method for used vehicle  
19 calculations; allowing factory to direct dealer in  
20 certain manner and method; requiring certain  
21 reimbursement claims be subject to certain  
22 limitations and requirements; placing certain limit  
23 on total compensation; disallowing certain remedy  
24 combinations; disallowing the use of certain  
agreements; making certain exception; providing for  
certain violation; allowing for certain construction  
or renovation; providing certain rebuttable  
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

1 noncodification; providing for codification; and  
2 providing an effective date.

3  
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

8 A. As used in this section:

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

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

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

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

23 5. "Protected dealer data" means:  
24

- a. personal data or financial data about a consumer that a dealer generated or that the consumer provided to the dealer that is not otherwise publicly available and which the consumer has not otherwise provided consent or acknowledgment permitting his or her information may be shared, and
- b. any other personal or financial data in connection with the dealer's daily business operations to which a dealer has rights in a dealer data system.

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

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

B. A dealer management system provider may:

1. Condition a dealer's or authorized integrator's access and ability to receive, share, copy, use, write or transmit protected dealer data from or to a dealer data system on the dealer's or authorized integrator's compliance with security standards;
2. Require an authorized integrator to have express written authorization from a dealer before allowing the authorized

1 integrator to gain access to, receive, share, copy, use or transmit  
2 protected dealer data; and

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

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

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

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

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

21 b. a requirement for a dealer or authorized integrator to  
22 provide sensitive or confidential business information  
23 or information that a dealer or authorized integrator  
24 uses for competitive purposes in return for access to

1           protected dealer data or an authorization to share or  
2           write protected dealer data to a dealer data system.

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

8           E. 1. An authorized integrator shall:

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

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

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

19           a. at the dealer's sole discretion, if the dealer gives  
20           30 days' prior notice to an authorized integrator, or

21           b. immediately, for good cause.

22           F. 1. This section does not prevent a dealer, a dealer  
23 management system provider or an authorized integrator from  
24 discharging the dealer's, dealer management system provider's or

1 authorized integrator's obligations under federal, state or local  
2 law to secure and prevent unauthorized access to protected dealer  
3 data, or from limiting the scope of the obligations, in accordance  
4 with federal, state or local law.

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

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

22 4. An authorized integrator is not liable for any action that a  
23 dealer takes directly with respect to securing or preventing  
24 unauthorized access to protected dealer data, or for actions that

1 the dealer takes in appropriately following the authorized  
2 integrator's written instructions for securing or preventing  
3 unauthorized access to protected dealer data, to the extent that the  
4 actions prevent the authorized integrator from meeting a legal  
5 obligation to secure or prevent unauthorized access to protected  
6 dealer data.

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

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

23 7. Notwithstanding any other agreement, a manufacturer,  
24 distributor or importer or any entity that is a subsidiary or



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

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

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

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

23 Any manufacturer or distributor who has new motor vehicle sales  
24 and service contracts with new motor vehicles dealers shall allow

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

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

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

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

23 a. recreational vehicles, as defined in the Recreational  
24 Vehicle Franchise Act, or

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  
24

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;

24

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  
24



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);

24

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  
24

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 or  
5        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 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 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.

16

17 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated  
18 02/23/2023 - DO PASS, As Amended and Coauthored.

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