

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3994

By: Dobrinski

4  
5  
6 AS INTRODUCED

7 An Act relating to motor vehicle dealers; amending 47  
8 O.S. 2021, Section 562, which relates to definitions;  
9 modifying definitions; amending 47 O.S. 2021, Section  
10 564, which relates to licenses; disallowing certain  
11 authorization; authorizing certain fee; providing for  
12 application for certain license; providing  
13 requirements and limitations of licensee; requiring  
14 certain license for delivery; providing for  
15 misdemeanor and fine offense; providing for  
16 guidelines for use of consumer data; providing  
17 certain indemnification; authorizing certain data  
18 disclosure; amending 47 O.S. 2021, Section 565, which  
19 relates to denial, revocation or suspension of  
20 license; requiring certain adherence; prohibiting  
21 certain performance methods; providing for  
22 calculation; providing for exclusions for certain  
23 rate calculation; requiring written notice; requiring  
24 criteria for validation; requiring certain factory  
compensation; prohibiting factory denial of certain  
claims and implementation of certain charge-backs;  
disallowing allocation requirements; allowing for  
certain construction or renovation; providing certain  
rebuttable presumption; limiting license for  
distribution; amending 47 O.S. 2021, Section 565.1,  
which relates to succession dealerships; clarifying  
language; requiring certain adherence; 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; limiting evaluations; deleting certain  
protest right; amending 47 O.S. 2021, Section 572,  
which relates to venue in damage actions; modifying  
certain legal remedies; awarding certain fees and  
costs; amending 47 O.S. 2021, Section 578.1, which

1 relates to procedures for relocation or  
2 establishment; modifying definition; amending 47 O.S.  
3 2021, Section 580.2, which relates to insurance  
4 coverage on loan vehicles; defining term; making  
5 certain liability policy coverage distinction;  
6 providing for codification; and providing an  
7 effective date.

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

9 SECTION 1. AMENDATORY 47 O.S. 2021, Section 562, is  
10 amended to read as follows:

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

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

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

24 2. "New motor vehicle dealer" means any person, firm,  
association, corporation or trust not excluded by this paragraph ~~who~~

1 that sells, leases, exchanges or otherwise conveys a new motor  
2 vehicle, accepts orders for sale, lease, exchange or other  
3 conveyance of a new motor vehicle, offers for sale, lease, exchange  
4 or other conveyance of a new motor vehicle, finances the sale,  
5 lease, or other conveyance of a new motor vehicle, advertises to  
6 sell, ~~leases or~~ lease, exchange or convey a new motor vehicle,  
7 offers through a subscription or like arrangement, displays new  
8 motor vehicles, offers vehicle test drives or demonstrations of new  
9 motor vehicle functions or features, or otherwise engages in any  
10 way, in whole or in part, in the business of selling, leasing,  
11 exchanging or otherwise conveying new motor vehicles and used motor  
12 vehicles, as well as parts, including post-sale software and  
13 hardware upgrades or changes to vehicle functions and features, and  
14 accessories for those motor vehicles, and holds a bona fide ~~contract~~  
15 ~~or~~ franchise in effect with a manufacturer or distributor authorized  
16 by the manufacturer to establish a physical place of business in the  
17 state which is of such reasonably sufficient size and accommodation  
18 to perform the activities of a new motor vehicle dealer, including  
19 vehicle inventory and display, sales activity, ~~make~~ predelivery  
20 preparation of ~~such~~ new motor vehicles sold, leased or otherwise  
21 conveyed to ~~purchasers~~ consumers and to ~~perform~~ post-sale work  
22 pursuant to the manufacturer's or distributor's warranty and recall  
23 policies. As used herein, "authorized predelivery preparation"  
24 means the rendition by the dealer of services and safety adjustments

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

- 22 a. receivers, trustees, administrators, executors,  
23 guardians or other persons appointed by or acting  
24 under judgment or order of any court,

1           b. public officers while performing or in operation of  
2           their duties, or

3           c. employees of persons, corporations or associations  
4           enumerated in subparagraph a of this paragraph when  
5           engaged in the specific performance of their duties as  
6           such employees;

7           3. "Motor vehicle salesperson" means any person who, for gain  
8           or compensation of any kind, either directly or indirectly,  
9           regularly or occasionally, by any form of agreement or arrangement,  
10          sells or negotiates for the sale, lease, conveyance or financing of  
11          any new motor vehicle for any new motor vehicle dealer to any one or  
12          more third parties;

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

14          5. "Manufacturer" means any person, firm, association,  
15          corporation or trust, resident or nonresident, who manufactures or  
16          assembles new and unused motor vehicles or who engages in the  
17          fabrication or assembly of motorized vehicles of a type required to  
18          be registered in the State of Oklahoma;

19          6. "Distributor" means any person, firm, association,  
20          corporation or trust, resident or nonresident, who, being authorized  
21          by the original manufacturer, in whole or in part sells or  
22          distributes new and unused motor vehicles to motor vehicle dealers,  
23          or who maintains distributor representatives;

1       7. "Factory branch" means any branch office maintained by a  
2 person, firm, association, corporation or trust who manufactures or  
3 assembles motor vehicles for the sale of motor vehicles to  
4 distributors, or for the sale of motor vehicles to motor vehicle  
5 dealers, or for directing or supervising, in whole or in part, its  
6 representatives;

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

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

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

21       11. "Franchise" means any contract or agreement between a motor  
22 vehicle dealer and a manufacturer of a new motor vehicle or its  
23 distributor or factory branch by which the dealer is authorized to  
24 engage in the ~~business of selling any specified make or makes of new~~

1 ~~motor vehicles~~ activities of a new motor vehicle dealer as defined  
2 by this section;

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

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

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

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

23 16. "Product" means new motor vehicles and new motor vehicle  
24 parts;

1 17. "Service" means motor vehicle warranty repairs including  
2 both parts and labor;

3 18. "Lead" means a consumer contact in response to a factory  
4 program designed to generate interest in purchasing or leasing a new  
5 motor vehicle;

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

7 20. "Factory" means a manufacturer, distributor, factory  
8 branch, distributor branch, factory representative or distributor  
9 representative, which manufactures or distributes vehicle products;

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

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

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

19 24. "Consumer data" means nonpublic personal information as  
20 such term is defined in 15 U.S.C., Section 6809(4) as it existed on  
21 January 1, 2022, that is:

22 a. collected by a dealer, and

23 b. provided by the dealer directly to a manufacturer or  
24 third party acting on behalf of a manufacturer.



1 Such term shall not include the same or similar data obtained by  
2 a manufacturer from any source other than the dealer or dealer's  
3 data management system; and

4 25. "Data management system" means a computer hardware or  
5 software system that:

- 6 a. is owned, leased or licensed by a dealer including a  
7 system or web-based applications, computer software or  
8 computer hardware,  
9 b. is located at the dealership or hosted remotely, and  
10 c. stores and provides access to consumer data collected  
11 or stored by a dealer.

12 Such term shall include, but shall not be limited to, dealership  
13 management systems and customer relations management systems.

14 SECTION 2. AMENDATORY 47 O.S. 2021, Section 564, is  
15 amended to read as follows:

16 Section 564. A. It shall be unlawful for any person, firm,  
17 association, corporation or trust to engage in business as, or serve  
18 in the capacity of, or act as a motor vehicle dealer or manufacturer  
19 or distributor of new motor vehicles, or factory branch, distributor  
20 branch or factory representative or distributor representative, as  
21 ~~such~~ defined in Section 562 of this title, in this state without  
22 first obtaining a license therefor as provided for by law. Any  
23 person, firm, association, corporation or trust engaging in more  
24 than one of such capacities or having more than one place where such

1 business is carried on or conducted shall be required to obtain and  
2 hold a current license for each thereof. Provided that, a new motor  
3 vehicle dealer's license shall authorize one person to sell in the  
4 event such person shall be the owner of a proprietorship, or the  
5 person designated as principal in the dealer's franchise or the  
6 managing officer or one partner if no principal person is named in  
7 the franchise. It is further provided that a factory or an entity  
8 affiliated by any ownership or control by the factory shall not be  
9 permitted to be licensed as a motor vehicle dealer.

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

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

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

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

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

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

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

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

19           6. For each motor vehicle direct shipper, initial fee of Three  
20 Hundred Dollars (\$300.00), with an annual renewal fee of One Hundred  
21 Dollars (\$100.00).

22           D. The licenses issued to each new motor vehicle dealer,  
23 manufacturer, distributor, factory branch, distributor branch or  
24 representative, if a corporation, shall specify the location of the

1 factory, office or branch thereof. In case such location is  
2 changed, the Commission may endorse the change of location on the  
3 license without charge unless the change of address triggers a  
4 relocation of a new motor vehicle dealer pursuant to the provisions  
5 of Section 578.1 of this title. The license of each dealer shall be  
6 posted in a conspicuous place in the dealer's place or places of  
7 business.

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

17 E. The powersports dealer license shall only allow the sale of  
18 the specific types of powersports vehicles authorized by the  
19 manufacturer and agreed to by the powersports dealer.

20 SECTION 3. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 564.3 of Title 47, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. A person who is licensed in his or her state of domicile as  
24 a franchised new motor vehicle dealer, and who is not affiliated by

1 ownership or control of a manufacturer, distributor, factory branch,  
2 factory representative, distributor branch or distributor  
3 representative, as defined in Section 562 Title 47 of the Oklahoma  
4 Statutes, may apply to the Oklahoma Motor Vehicle Commission for a  
5 motor vehicle direct shipper license. Only a person holding a motor  
6 vehicle direct shipper license may ship a new motor vehicle from out  
7 of the state to a person, association or entity who is an Oklahoma  
8 resident. A motor vehicle dealer licensed in this state shall not  
9 be required to obtain a motor vehicle direct shipper license to ship  
10 a new motor vehicle to a person, association or entity who is an  
11 Oklahoma resident. Any person who ships less than three new motor  
12 vehicles per year from out of the state to a person, association or  
13 entity that is an Oklahoma resident shall not be required to obtain  
14 a motor vehicle direct shipper license. The license fee for a motor  
15 vehicle direct shipper shall be determined by the Commission. The  
16 amount of the fee must approximate and reasonably reflect the costs  
17 necessary to defray the expenses of the Commissioner's service and  
18 activities in connection with this section.

19 B. It shall be unlawful for common or permit carriers,  
20 operators of trucks, buses or other conveyances or out-of-state  
21 manufacturers or suppliers to make delivery of any new motor vehicle  
22 from without the State of Oklahoma to any person, association or  
23 entity within the state unless the delivery is made by a person  
24

1 licensed in this state as a motor vehicle dealer or a motor vehicle  
2 direct shipper.

3 C. A person who sells and ships a new motor vehicle directly  
4 from any person, association or corporation to a resident of the  
5 State of Oklahoma without holding a valid motor vehicle direct  
6 shipper's license, upon conviction, shall be guilty of a misdemeanor  
7 and subject to a fine pursuant to Section 565 of Title 47 of the  
8 Oklahoma Statutes.

9 SECTION 4. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 564.4 of Title 47, unless there  
11 is created a duplication in numbering, reads as follows:

12 With respect to consumer data, a factory or third party acting  
13 on behalf of a factory:

14 1. Shall comply with and shall not cause a dealer to violate  
15 any applicable restrictions on reuse or disclosure of consumer data  
16 established by federal or state law;

17 2. Shall, upon the written request of the dealer, provide a  
18 written statement describing the established procedures adopted by  
19 such factory or third party acting on behalf of the factory which  
20 meet or exceed any federal or state requirements to safeguard  
21 consumer data including, but not limited to, those established in  
22 the Gramm-Leach-Bliley Act, 15 U.S.C., Section 6801 et seq.;

23 3. Shall, upon the written request of the dealer, provide a  
24 written list of the consumer data obtained from the dealer and all

1 persons to whom any consumer data has been provided by the factory  
2 or a third party acting on behalf of a factory during the preceding  
3 six (6) months. The dealer may make such a request no more than  
4 once every six (6) months. The list must indicate the specific  
5 fields of consumer data which were provided to each person;

6 4. May not require that a dealer grant the factory or a third  
7 party acting on behalf of a factory, or use any incentive or  
8 withhold any benefit from a dealer to obtain, direct or indirect  
9 access to such dealer's data management system to obtain consumer  
10 data. A factory or a third party acting on behalf of a factory  
11 shall permit a dealer to furnish consumer data in a widely accepted  
12 file format, such as comma delimited, and through a third-party  
13 vendor selected by the dealer. However, a factory or a third party  
14 acting on behalf of a factory may access or obtain consumer data  
15 directly from a dealer's data management system with the express  
16 written consent of the dealer. The consent shall be in the form of  
17 a stand-alone written document that is executed by the dealer  
18 principal or operator and may be withdrawn by the dealer upon thirty  
19 (30) days' written notice to the factory or third party acting on  
20 the factory's behalf, as applicable. Such consent shall not be  
21 required as a condition to a new motor vehicle dealer's  
22 participation in an incentive program or receipt of some other  
23 benefit; and

24



1           5. Shall indemnify the dealer for any third-party claims  
2 asserted against or damages incurred by the dealer to the extent  
3 caused by access to, use of, or disclosure of consumer data in  
4 violation of this section by the factory or a third party to whom  
5 the factory has provided consumer data. Nothing contained in this  
6 section shall limit the ability of the factory or a third party  
7 acting on the factory's behalf to require that the dealer provide,  
8 or use in accordance with the law, such consumer information related  
9 solely to such factory's own vehicle makes to the extent necessary  
10 to do any of the following:

- 11           a. satisfy any safety or recall notice obligations or  
12                 other legal notice obligations on the part of the  
13                 manufacturer,
- 14           b. validate and pay to a dealer a consumer or dealer  
15                 incentive, or
- 16           c. submit claims to the factory for any services supplied  
17                 by the dealer for any claim for warranty parts or  
18                 repair.

19 The factory shall be limited to using consumer data strictly for the  
20 purposes listed in this paragraph.

21           SECTION 5.           AMENDATORY           47 O.S. 2021, Section 565, is  
22 amended to read as follows:

23           Section 565. A. The Oklahoma Motor Vehicle Commission may deny  
24 an application for a license, ~~or~~ revoke or suspend a license, or

1 impose a fine against any person, not to exceed Ten Thousand Dollars  
2 (\$10,000.00) ~~against a manufacturer or distributor or a fine not to~~  
3 ~~exceed One Thousand Dollars (\$1,000.00) against a dealer,~~ per  
4 occurrence ~~that,~~ who violates any provision of Sections 561 through  
5 567, 572, 578.1, 579 and 579.1 of this title ~~is violated~~ or for any  
6 of the following reasons:

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

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

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

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

18 5. Being a new motor vehicle dealer who:

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

24

- 1           b.    uses any false or misleading advertising in connection  
2                   with business as a new motor vehicle dealer,  
3           c.    has committed any unlawful act which resulted in the  
4                   revocation of any similar license in another state,  
5           d.    has failed or refused to perform any written agreement  
6                   with any retail buyer involving the sale of a motor  
7                   vehicle,  
8           e.    has been convicted of a crime involving moral  
9                   turpitude,  
10          f.    has committed a fraudulent act in selling, purchasing  
11                   or otherwise dealing in new motor vehicles or has  
12                   misrepresented the terms and conditions of a sale,  
13                   purchase or contract for sale or purchase of a new  
14                   motor vehicle or any interest therein including an  
15                   option to purchase such vehicle,  
16          g.    has failed to meet or maintain the conditions and  
17                   requirements necessary to qualify for the issuance of  
18                   a license, or  
19          h.    completes any sale or transaction of an extended  
20                   service contract, extended maintenance plan, or  
21                   similar product using contract forms that do not  
22                   conspicuously disclose the identity of the service  
23                   contract provider;  
24

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

3           7. Being a new motor vehicle dealer who:

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

5           b. does not provide for a suitable repair shop separate  
6 from the display room with ample space to repair or  
7 recondition one or more vehicles at the same time, and  
8 which is staffed with properly trained repair  
9 technicians and is equipped with such parts, tools and  
10 equipment as may be requisite for the servicing of  
11 motor vehicles in such a manner as to make them comply  
12 with the safety laws of this state and to properly  
13 fulfill the dealer's or manufacturer's warranty  
14 obligation,

15           c. does not hold a franchise in effect with a  
16 manufacturer or distributor of new or unused motor  
17 vehicles for the sale of the same and is not  
18 authorized by the manufacturer or distributor to  
19 render predelivery preparation of such vehicles sold  
20 to purchasers and to perform any authorized post-sale  
21 work pursuant to the manufacturer's or distributor's  
22 warranty,

23           d. employs a person without obtaining a certificate of  
24 registration for the person, or utilizes the services

1 of used motor vehicle lots or dealers or other  
2 unlicensed persons in connection with the sale of new  
3 motor vehicles,

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

6 f. fails to order and stock a reasonable number of new  
7 motor vehicles necessary to meet ~~customer~~ consumer  
8 demand for each of the new motor vehicles included in  
9 the new motor vehicle dealer's franchise agreement,  
10 unless the new motor vehicles are not readily  
11 available from the manufacturer or distributor due to  
12 limited production;

13 8. Being a factory that has:

14 a. either induced or attempted to induce by means of  
15 coercion or intimidation, any new motor vehicle  
16 dealer:

17 (1) to accept delivery of any motor vehicle or  
18 vehicles, parts or accessories therefor, or any  
19 other commodities including advertising material  
20 which shall not have been ordered by the new  
21 motor vehicle dealer,

22 (2) to order or accept delivery of any motor vehicle  
23 with special features, appliances, accessories or  
24 equipment not included in the list price of the

1 motor vehicles as publicly advertised by the  
2 manufacturer thereof, or

3 (3) to order or accept delivery of any parts,  
4 accessories, equipment, machinery, tools,  
5 appliances or any commodity whatsoever, or

6 b. induced under threat or discrimination by the  
7 withholding from delivery to a motor vehicle dealer  
8 certain models of motor vehicles, changing or amending  
9 unilaterally the dealer's allotment of motor vehicles  
10 and/or withholding and delaying delivery of such  
11 vehicles out of the ordinary course of business, in  
12 order to induce by such coercion any such dealer to  
13 participate or contribute to any local or national  
14 advertising fund controlled directly or indirectly by  
15 the factory or for any other purposes such as contest,  
16 ~~"give-aways"~~ "giveaways" or other so-called sales  
17 promotional devices and/or change of quotas in any  
18 sales contest; or has required motor vehicle dealers,  
19 as a condition to receiving their vehicle allotment,  
20 to order a certain percentage of the vehicles with  
21 optional equipment not specified by the new motor  
22 vehicle dealer; however, nothing in this section shall  
23 prohibit a factory from supporting an advertising  
24

1 association which is open to all dealers on the same  
2 basis,

3 c. used or proposed to use an unreasonable, arbitrary or  
4 unfair sales or other standard to measure a dealer's  
5 performance under any factory program, policy or the  
6 franchise agreement. It shall be considered  
7 unreasonable, arbitrary and unfair for the factory to  
8 fail to take into account the dealer's specific and  
9 market circumstances in establishing the sales or  
10 other standard,

11 d. failed or refused to sell, or offer for sale, new and  
12 used motor vehicles to all of its same line-make  
13 franchised dealers at the same price for a comparably  
14 equipped motor vehicle, on the same terms, with no  
15 differential in discount, allowance, credit or bonus,

16 e. failed to reimburse a dealer in full for the actual  
17 cost of providing a loaner vehicle to any consumer who  
18 is having a vehicle serviced at the dealership if the  
19 provision of such a loaner vehicle is required by the  
20 factory. For purposes of this paragraph, actual cost  
21 shall not exceed the average cost in the dealer's  
22 region for the rental of a substantially similar make  
23 and model as the vehicle being serviced;

24 9. Being a factory that:

- 1 a. has attempted to coerce or has coerced any new motor  
2 vehicle dealer to enter into any agreement or to  
3 cancel any agreement, or fails to act in good faith  
4 and in a fair, equitable and nondiscriminatory manner;  
5 or has directly or indirectly coerced, intimidated,  
6 threatened or restrained any motor vehicle dealer; or  
7 has acted dishonestly, or has failed to act in  
8 accordance with the reasonable standards of fair  
9 dealing,
- 10 b. has failed to compensate its dealers for the work and  
11 services they are required to perform in connection  
12 with the dealer's delivery and preparation obligations  
13 according to the agreements on file with the  
14 Commission which must be found by the Commission to be  
15 reasonable, or ~~fail~~ has failed to adequately and  
16 fairly compensate its dealers for labor, parts and  
17 other expenses incurred by such dealer to perform  
18 under and comply with manufacturer's warranty  
19 agreements, extended warranty agreements, maintenance  
20 agreements, recall repairs and similar work, which  
21 shall include diagnostic work and goodwill repairs.  
22 Time allowances for the diagnosis and performance of  
23 repair work shall be reasonable and adequate for the  
24 work to be performed. Adequate and fair compensation



1 for parts and/or labor shall be established by the  
2 dealer submitting to the manufacturer or distributor  
3 one hundred sequential nonwarranty ~~customer-paid~~  
4 consumer-paid service repair orders which contain  
5 warranty-like ~~parts~~ repairs, or ninety (90)  
6 consecutive days of nonwarranty ~~customer-paid~~  
7 consumer-paid service repair orders which contain  
8 warranty-like ~~parts~~ repairs, whichever is less,  
9 covering repairs made no more than one hundred eighty  
10 (180) days before the submission and declaring the  
11 average percentage markup. ~~Adequate and fair~~  
12 ~~compensation for labor shall be established by the~~  
13 ~~dealer submitting to the manufacturer or distributor~~  
14 ~~one hundred sequential customer-paid service repair~~  
15 ~~orders which contain labor charges, or ninety (90)~~  
16 ~~consecutive days of customer-paid service repair~~  
17 ~~orders which contain labor charges, whichever is less.~~  
18 The dealer shall calculate its retail parts rate by  
19 determining the total charges for parts from the  
20 qualified repair orders submitted, dividing that  
21 amount by the dealer's total cost of the purchase of  
22 those parts, subtracting one (1), and multiplying by  
23 one hundred (100) to produce a percentage. The dealer  
24 shall calculate its retail labor rate by dividing the

1 amount of the dealer's total labor sales from the  
2 qualified repair orders by the total labor hours that  
3 generated those sales. When submitting repair orders  
4 to ~~calculate~~ establish a retail parts and/or labor  
5 rate, a dealer need not include ~~repair orders~~ repairs  
6 for:

7 (1) routine maintenance including, but not limited  
8 to, the replacement of bulbs, fluids, filters,  
9 batteries and belts that are not provided in the  
10 course of and related to a repair,

11 (2) factory special events, specials or promotional  
12 discounts for retail consumer repairs,

13 (3) parts sold or repairs performed at wholesale,

14 (4) factory-approved goodwill or policy repairs or  
15 replacements,

16 (5) repairs with aftermarket parts, when calculating  
17 the retail parts rate but not the retail labor  
18 rate,

19 (6) repairs on aftermarket parts,

20 (7) replacement of or work on tires including front-  
21 end alignments and wheel or tire rotations,

22 (8) repairs of motor vehicles owned by the dealer or  
23 employee thereof at the time of the repair,

24 (9) engine and/or transmission assemblies,

1           (10) vehicle reconditioning, or  
2           (11) items that do not have individual part numbers  
3           including, but not limited to, nuts, bolts and  
4           fasteners. A manufacturer or distributor may,  
5           not later than thirty (30) days after submission,  
6           rebut that declared retail parts and labor rate  
7           in writing by reasonably substantiating that the  
8           rate is inaccurate or ~~unreasonable in light of~~  
9           ~~the practices of all other franchised motor~~  
10           ~~vehicle dealers in an economically similar part~~  
11           ~~of the state offering the same line-make vehicles~~  
12           not established in accordance with this section.  
13           A manufacturer or distributor shall not deny the  
14           dealer's submission to establish the retail labor  
15           rate, retail parts rate or both, under this  
16           section. Instead, the manufacturer or  
17           distributor must approve or rebut as provided  
18           herein. The retail ~~rate~~ labor and parts rates  
19           shall go into effect thirty (30) days following  
20           the approval by the manufacturer or distributor,  
21           subject to audit of the submitted repair orders  
22           by the franchisor and a rebuttal of the declared  
23           rate as described above. If the declared rate is  
24           rebutted, the manufacturer or distributor shall

1 provide written notice stating the specific  
2 reasons for the rebuttal, a full explanation of  
3 any and all reasons for the allegation, evidence  
4 substantiating the manufacturer or distributor's  
5 position, a copy of all calculations used by the  
6 franchisor in determining the manufacturer or  
7 distributor's position and propose an adjustment  
8 in writing of the average percentage markup or  
9 labor rate based on that rebuttal not later than  
10 thirty (30) days after submission. If the dealer  
11 does not agree with the proposed average  
12 percentage markup or labor rate, the dealer may  
13 file a protest with the Commission not later than  
14 thirty (30) days after receipt of that proposal  
15 by the manufacturer or distributor. In the event  
16 a protest is filed, the manufacturer or  
17 distributor shall have the burden of proof to  
18 establish the new motor vehicle dealer's  
19 submitted parts markup rate or labor rate was  
20 inaccurate or ~~unreasonable in light of the~~  
21 ~~practices of all other franchised motor vehicle~~  
22 ~~dealers in an economically similar part of the~~  
23 ~~state~~ not established in accordance with this  
24 section. A manufacturer or distributor may not

1           retaliate against any new motor vehicle dealer  
2           seeking to exercise its rights under this  
3           ~~provision~~ section. A manufacturer or distributor  
4           may require a dealer to submit repair orders in  
5           accordance with this section in order to validate  
6           a dealer's retail rate for parts or labor not  
7           more often than once every twelve (12) months.  
8           Any validation of the retail parts and labor rate  
9           as permitted herein must use the same criteria  
10          for establishment of the rate in this section. A  
11          manufacturer or distributor may not otherwise  
12          recover its costs from dealers within this state  
13          including an increase in the wholesale price of a  
14          vehicle or surcharge imposed on a dealer solely  
15          intended to recover the cost of reimbursing a  
16          dealer for parts and labor pursuant to this  
17          section; provided, a manufacturer or distributor  
18          shall not be prohibited from increasing prices  
19          for vehicles or parts in the normal course of  
20          business. All claims made by dealers for  
21          compensation for delivery, preparation and  
22          ~~warranty~~ repair work shall be paid within thirty  
23          (30) days after approval and shall be approved or  
24          disapproved within thirty (30) days after

1 receipt. When any claim is disapproved, the  
2 dealer shall be notified in writing of the  
3 grounds for disapproval. The dealer's delivery,  
4 preparation and warranty obligations as filed  
5 with the Commission shall constitute the dealer's  
6 sole responsibility for product liability as  
7 between the dealer and manufacturer. A factory  
8 may reasonably and periodically audit a new motor  
9 vehicle dealer to determine the validity of paid  
10 claims for dealer compensation or any charge-  
11 backs for warranty parts or service compensation.  
12 Except in cases of suspected fraud, audits of  
13 warranty payments shall only be for the one-year  
14 period immediately following the date of the  
15 payment. A manufacturer shall reserve the right  
16 to reasonable, periodic audits to determine the  
17 validity of paid claims for dealer compensation  
18 or any charge-backs for consumer or dealer  
19 incentives. Except in cases of suspected fraud,  
20 audits of incentive payments shall only be for a  
21 one-year period immediately following the date of  
22 the payment. A factory shall not deny a claim or  
23 charge a new motor vehicle dealer back subsequent  
24 to the payment of the claim unless the factory

1 can show that the claim was false or fraudulent  
2 or that the new motor vehicle dealer failed to  
3 reasonably substantiate the claim by the written  
4 reasonable procedures of the factory. A factory  
5 shall not deny a claim or implement a charge-back  
6 against a new motor vehicle dealer after payment  
7 of a claim in the event a purchaser of a new  
8 vehicle that is the subject of a claim fails to  
9 comply with titling or registration laws of this  
10 state and is not prevented from compliance by any  
11 action of the dealer. The factory shall provide  
12 written notice to a dealer of a proposed charge-  
13 back that is the result of an audit along with  
14 the specific audit results and proposed charge-  
15 back amount. A dealer that receives notice of a  
16 proposed charge-back pursuant to a factory's  
17 audit has the right to file a protest with the  
18 Commission within thirty (30) days after receipt  
19 of the notice of the charge-back or audit  
20 results, whichever is later. The factory is  
21 prohibited from implementing the charge-back or  
22 debiting the dealer's account until either the  
23 time frame for filing a protest has passed or a  
24 final adjudication is rendered by the Commission,

- 1                   whichever is later, unless the dealer has agreed  
2                   to the charge-back or charge-backs,  
3       c.   fails to compensate the new motor vehicle dealer for a  
4           used motor vehicle:
- 5           (1) that is of the same make and model manufactured,  
6           imported or distributed by the manufacturer,
  - 7           (2) that is subject to a recall notice issued by the  
8           manufacturer, distributor or an authorized  
9           governmental agency, regardless of whether the  
10           vehicle is identified by its vehicle  
11           identification number,
  - 12           (3) that is held by the new motor vehicle dealer in  
13           the dealer's inventory at the time the recall  
14           notice is issued or that is taken by the new  
15           motor vehicle dealer into the dealer's inventory  
16           after the recall notice as a result of a retail  
17           consumer trade-in or a lease return to the dealer  
18           inventory in accordance with an applicable lease  
19           contract,
  - 20           (4) that cannot be repaired due to the  
21           unavailability, within thirty (30) days after  
22           issuance of the recall notice, of a remedy or  
23           parts necessary for the new motor vehicle dealer  
24           to make the recall repair, and



1           (5) for which the factory has not issued a written  
2           statement to the new motor vehicle dealer  
3           indicating that the used motor vehicle may be  
4           sold or delivered to a retail consumer before  
5           completion of the recall repair. The purpose of  
6           such written statement is to provide notice to  
7           the new motor vehicle dealer that the vehicle may  
8           be sold or delivered based solely on the specific  
9           recall notice and is not intended to address any  
10           other aspect of the vehicle unrelated to the  
11           recall notice. The factory shall pay the  
12           compensation required under this subsection  
13           within thirty (30) days after the motor vehicle  
14           dealer's application for payment. Compensation  
15           under this subsection must be the greater of:  
16           (a) payment at a rate of at least one and one-  
17           half percent (1.5%) per month of the value  
18           of the motor vehicle as determined by the  
19           average Black Book value of the  
20           corresponding model year vehicle of average  
21           condition, of each eligible used motor  
22           vehicle in the new motor vehicle dealer's  
23           inventory for each month that the dealer  
24           does not receive a remedy and parts to

1 complete the required recall repair. Such  
2 payment must be prorated for any period less  
3 than one (1) month based on the number of  
4 days during the month each eligible used  
5 motor vehicle is in the motor vehicle  
6 dealer's inventory, or

7 (b) payment under a national program applicable  
8 to all motor vehicle dealers holding a  
9 franchise agreement with the manufacturer  
10 for the motor vehicle dealer's costs  
11 associated with holding the eligible used  
12 motor vehicles,

13 d. unreasonably fails or refuses to offer to its same  
14 line-make franchised dealers a reasonable supply and  
15 mix of all models manufactured for that line-make, or  
16 unreasonably requires a dealer to pay any extra fee,  
17 purchase unreasonable advertising displays or other  
18 materials, enter into a separate agreement, or  
19 remodel, renovate, or recondition the dealer's  
20 existing facilities as a prerequisite to receiving a  
21 model or series of vehicles. It shall be a violation  
22 of this section for new vehicle allocation to be  
23 withheld subject to any requirement to purchase or  
24 sell any number of used or off-lease vehicles. The

1 failure to deliver any such new motor vehicle shall  
2 not be considered a violation of the section if the  
3 failure is not arbitrary or is due to lack of  
4 manufacturing capacity or to a strike or labor  
5 difficulty, a shortage of materials, a freight embargo  
6 or other cause over which the manufacturer has no  
7 control. However, this for vehicles planned for  
8 limited production, each dealer shall receive at least  
9 one such vehicle and otherwise shall receive a  
10 reasonable and proportional share of such vehicle  
11 allocation. This subparagraph shall not apply to  
12 recreational vehicles or limited production model  
13 vehicles,

14 d.

15 e. except as necessary to comply with a health or safety  
16 law, or to comply with a technology requirement which  
17 is necessary to sell or service a motor vehicle that  
18 the franchised motor vehicle dealer is authorized or  
19 licensed by the franchisor to sell or service,  
20 requires a new motor vehicle dealer to provide any  
21 service or take any action or to construct a new  
22 facility or substantially renovate the new motor  
23 vehicle dealer's existing facility, in order to  
24 receive all models manufactured for that line-make,

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

1 licensed by the franchisor to sell or service, a  
2 dealer which completes a facility construction or  
3 renovation pursuant to factory requirements shall not  
4 be required to construct a new facility or renovate  
5 the existing facility for ten (10) years, during which  
6 time the dealer will be considered in compliance with  
7 any new facility program for purposes of being  
8 entitled to all incentive or bonus payments offered to  
9 same line-make dealers,

10 ~~e.~~

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

20 ~~f.~~

21 h. requires a new motor vehicle dealer to enter into a  
22 site-control agreement covering any or all of the new  
23 motor vehicle dealer's facilities or premises;  
24 provided, that this ~~provision~~ section shall not

1 restrict the terms of any site-control agreement  
2 voluntarily entered into and supported by valuable  
3 consideration separate from the new motor vehicle  
4 dealer's right to sell and service motor vehicles for  
5 the franchisor. Notwithstanding the foregoing or the  
6 terms of any site-control agreement, a site-control  
7 agreement automatically extinguishes if all of the  
8 factory's franchises that operated from the location  
9 that are the subject of the site-control agreement are  
10 terminated by the factory as part of the  
11 discontinuance of a product line, ~~or~~

12 ~~g.~~

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

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

20          10. Being a factory that:

21           a. establishes a system of motor vehicle allocation or  
22           distribution which is unfair, inequitable or  
23           unreasonably discriminatory. Upon the request of any  
24           dealer franchised by it, a factory shall disclose in

1 writing to the dealer the basis upon which new motor  
2 vehicles are allocated, scheduled and delivered among  
3 the dealers of the same line-make for that factory, or  
4 b. changes an established plan or system of motor vehicle  
5 distribution. A motor vehicle dealer franchise  
6 agreement shall continue in full force and operation  
7 notwithstanding a change, in whole or in part, of an  
8 established plan or system of distribution of the  
9 motor vehicles offered or previously offered for sale  
10 under such franchise agreement. The appointment of a  
11 new importer or distributor for motor vehicles offered  
12 for sale under such franchise agreement shall be  
13 deemed to be a change of an established plan or system  
14 of distribution. Upon the occurrence of such change,  
15 the manufacturer or distributor shall be prohibited  
16 from obtaining a license to distribute vehicles under  
17 the new plan or system of distribution unless the  
18 manufacturer or distributor offers to each motor  
19 vehicle dealer who is a party to the franchise  
20 agreement a new franchise agreement containing  
21 substantially the same provisions which were contained  
22 in the previous franchise agreement;

23 11. Being a factory that sells directly or indirectly new motor  
24 vehicles to any retail consumer in the state except through a new



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

- 13 12. a. Being a factory which directly or indirectly:
- 14 (1) owns any ownership interest or has any financial  
15 interest in a new motor vehicle dealer or any  
16 person who sells products or services to the  
17 public,
- 18 (2) operates or controls a new motor vehicle dealer,  
19 or
- 20 (3) acts in the capacity of a new motor vehicle  
21 dealer.
- 22 b. (1) This paragraph does not prohibit a factory from  
23 owning or controlling a new motor vehicle dealer  
24 while in a bona fide relationship with a dealer

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

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

22 (3) This paragraph does not prohibit a factory from  
23 owning, operating or controlling or acting in the  
24

1 capacity of a motor vehicle dealer which was in  
2 operation prior to January 1, 2000.

3 (4) This paragraph does not prohibit a factory from  
4 owning, directly or indirectly, a minority  
5 interest in an entity that owns, operates or  
6 controls motor vehicle dealerships of the same  
7 line-make franchised by the manufacturer,  
8 provided that each of the following conditions  
9 are met:

10 (a) all of the motor vehicle dealerships selling  
11 the motor vehicles of that manufacturer in  
12 this state trade exclusively in the line-  
13 make of that manufacturer,

14 (b) all of the franchise agreements of the  
15 manufacturer confer rights on the dealer of  
16 the line-make to develop and operate, within  
17 a defined geographic territory or area, as  
18 many dealership facilities as the dealer and  
19 manufacturer shall agree are appropriate,

20 (c) at the time the manufacturer first acquires  
21 an ownership interest or assumes operation,  
22 the distance between any dealership thus  
23 owned or operated and the nearest  
24 unaffiliated motor vehicle dealership

1 trading in the same line-make is not less  
2 than seventy (70) miles,

3 (d) during any period in which the manufacturer  
4 has such an ownership interest, the  
5 manufacturer has no more than three  
6 franchise agreements with new motor vehicle  
7 dealers licensed by the Oklahoma Motor  
8 Vehicle Commission to do business within the  
9 state, and

10 (e) prior to January 1, 2000, the factory shall  
11 have furnished or made available to  
12 prospective motor vehicle dealers an  
13 offering-circular in accordance with the  
14 Trade Regulation Rule on Franchising of the  
15 Federal Trade Commission, and any guidelines  
16 and exemptions issued thereunder, which  
17 disclose the possibility that the factory  
18 may from time to time seek to own or  
19 acquire, directly or indirectly, ownership  
20 interests in retail dealerships;

21 13. Being a factory which directly or indirectly makes  
22 available for public disclosure any proprietary information provided  
23 to the factory by a new motor vehicle dealer, other than in  
24 composite form to dealers in the same line-make or in response to a

1 subpoena or order of the Commission or a court. Proprietary  
2 information includes, but is not limited to, information:

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

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

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

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

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

23  
24

1           b.    the proposed new location is within the area of  
2                   responsibility of the new motor vehicle dealer  
3                   pursuant to Section 578.1 of this title, and

4           c.    the factory has sixty (60) days from receipt of the  
5                   new motor vehicle dealer's relocation request to  
6                   approve or deny the request.  The failure to approve  
7                   or deny the request within the sixty-day time frame  
8                   shall constitute approval of the request;

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

17           18.  Being a factory that increases prices of new motor vehicles  
18           which the new motor vehicle dealer had ordered for retail consumers  
19           and notified the factory prior to the dealer's receipt of the  
20           written official price increase notification.  A sales contract  
21           signed by a retail consumer accompanied with proof of order  
22           submission to the factory shall constitute evidence of each such  
23           order, provided that the vehicle is in fact delivered to the  
24           ~~customer~~ consumer.  Price differences applicable to new models or

1 series motor vehicles at the time of the introduction of new models  
2 or series shall not be considered a price increase for purposes of  
3 this paragraph. Price changes caused by any of the following shall  
4 not be subject to the provisions of this paragraph:

- 5 a. the addition to a motor vehicle of required or  
6 optional equipment pursuant to state or federal law,
- 7 b. revaluation of the United States dollar in the case of  
8 foreign-made vehicles or components, or
- 9 c. an increase in transportation charges due to increased  
10 rates imposed by common or contract carriers;

11 19. Being a factory that requires a new motor vehicle dealer to  
12 participate monetarily in an advertising campaign or contest, or  
13 purchase any promotional materials, showroom or other display  
14 decoration or materials at the expense of the new motor vehicle  
15 dealer without consent of the dealer, which consent shall not be  
16 unreasonably withheld;

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

21 21. Being a factory that requires a new motor vehicle dealer to  
22 sell, offer to sell or sell exclusively an extended service  
23 contract, extended maintenance plan or similar product, such as gap  
24

1 products offered, endorsed or sponsored by the factory by the  
2 following means:

- 3 a. by an act or statement from the factory that will in  
4 any manner adversely impact the dealer,
- 5 b. by measuring the dealer's performance under the  
6 franchise based on the sale of extended service  
7 contracts, extended maintenance plans or similar  
8 products offered, endorsed or sponsored by the  
9 manufacturer or distributor.

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

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

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



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

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

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

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

1 twelve (12) months, rental of motor vehicles and industrial and  
2 construction equipment and activities incidental to that business,  
3 provided that:

4 a. any motor vehicle sold by that person is limited to  
5 used motor vehicles that have been previously used  
6 exclusively and regularly by that person in the  
7 conduct of business and used motor vehicles traded in  
8 on motor vehicles sold by that person,

9 b. warranty repairs performed by that person on motor  
10 vehicles are limited to those motor vehicles that it  
11 owns, previously owned or takes in trade, and

12 c. motor vehicle financing provided by that person to  
13 retail consumers for motor vehicles is limited to used  
14 vehicles sold by that person in the conduct of  
15 business; or

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

18 SECTION 6. AMENDATORY 47 O.S. 2021, Section 565.1, is  
19 amended to read as follows:

20 Section 565.1 Notwithstanding the terms of any franchise  
21 agreement, and subject to the following conditions contained in  
22 paragraphs 1 through 5 of this section, any manufacturer or  
23 distributor who prevents or refuses to honor the succession to the  
24 operation of a dealership by any legal heir or devisee under the

1 will of a new motor vehicle dealer or under the laws of descent and  
2 distribution of this state, or designated successor to a departing  
3 dealership operator, without good cause or good faith, as defined in  
4 this section, shall be subject to the following procedure:

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

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

19 3. Within sixty (60) days of receipt of such information, the  
20 manufacturer shall approve or disapprove the proposed successor  
21 ~~dealership~~ dealer, and in case of disapproval shall communicate in  
22 writing such disapproval and grounds for disapproval to the ~~legal~~  
23 ~~heir or devisee~~ proposed successor;

24

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

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

1 qualifications for general business experience ~~and other~~  
2 ~~requirements relating to prospective franchises.~~ Any denial of the  
3 proposed successor based upon a failure to agree to terms other than  
4 those contained in the existing franchise agreement shall not be  
5 considered good cause for such denial. The disapproval by the  
6 manufacturer shall be final if the ~~legal heir or devisee~~ proposed  
7 successor or dealership fails to file a timely protest of such  
8 disapproval. In the event that the Commission finds that the  
9 manufacturer's disapproval was not made for good cause, then it  
10 shall issue a final order requiring the manufacturer to honor the  
11 successor designated in the notice sent by the legal heir or  
12 devisee. Notwithstanding anything to the contrary in this section,  
13 a new motor vehicle dealer may designate any person as successor by  
14 filing a written instrument pursuant to the franchise with the  
15 manufacturer during the new motor vehicle dealer's lifetime. In  
16 such a case, the written instrument and franchise shall govern the  
17 dealership succession.

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

24

1 SECTION 7. AMENDATORY 47 O.S. 2021, Section 565.2, is  
2 amended to read as follows:

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

17 B. Irrespective of the terms, provisions or conditions of any  
18 franchise, or the terms or provisions of any waiver, good cause  
19 shall exist for the purpose of a termination, cancellation, or  
20 nonrenewal when:

21 1. The new motor vehicle dealer has failed to comply with a  
22 provision of the franchise, which provision is both reasonable and  
23 of material significance to the franchise relationship, or the new  
24 motor vehicle dealer has failed to comply with reasonable

1 performance criteria for sales or service established by the  
2 manufacturer, and the dealer has been notified by written notice  
3 from the manufacturer; and

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

13 C. Irrespective of the terms, provisions or conditions of any  
14 franchise agreement prior to the termination, cancellation or  
15 nonrenewal of any franchise, the manufacturer shall furnish  
16 notification of such termination, cancellation or nonrenewal to the  
17 new motor vehicle dealer and the Oklahoma Motor Vehicle Commission  
18 as follows:

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

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

- 1 a. insolvency of the new motor vehicle dealer, or the  
2 filing of any petition by or against the motor vehicle  
3 dealer under any bankruptcy or receivership law,  
4 b. failure of the new motor vehicle dealer to conduct its  
5 customary sales and service operations during its  
6 customary business hours for seven (7) consecutive  
7 business days, provided that such failure to conduct  
8 business shall not be due to an act of God or  
9 circumstances beyond the direct control of the new  
10 motor vehicle dealer, or  
11 c. conviction of the new motor vehicle dealer of any  
12 felony which is punishable by imprisonment or a  
13 violation of the Federal Odometer Act; and

14 3. Not less than one hundred eighty (180) days prior to the  
15 effective date of such termination or cancellation where the  
16 manufacturer or distributor is discontinuing the sale of the product  
17 line.

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



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

1 effect, including the right to transfer the franchise. If the new  
2 motor vehicle dealer prevails in the threatened termination action,  
3 the Commission shall award to the new motor vehicle dealer the  
4 attorney fees and costs incurred to defend the action.

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

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

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

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

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

23 a. For the purposes of paragraph 1 of this subsection,  
24 fair and reasonable compensation shall be no less than

1 the net acquisition price of the vehicle paid by the  
2 new motor vehicle dealer.

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

10 F. If a factory prevails in an action to terminate, cancel or  
11 not renew any franchise and the new motor vehicle dealer is leasing  
12 the dealership facilities, the manufacturer shall pay a reasonable  
13 rent to the lessor in accordance with and subject to the provisions  
14 of subsection G of this section. Nothing in this section shall be  
15 construed to relieve a dealer of its duty to mitigate damages.

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

19 a. used solely for performance in accordance with the  
20 franchise. If the facility is used for the operation  
21 of more than one franchise, the reasonable rent shall  
22 be paid based upon the portion of the facility  
23 utilized by the franchise being terminated, canceled  
24 or nonrenewed, and

1           b.    not substantially in excess of facilities recommended  
2                    by the manufacturer.

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

7           a.    locate a qualified purchaser who will offer to  
8                    purchase the dealership facilities at a reasonable  
9                    price,

10          b.    locate a qualified lessee who will offer to lease the  
11                    premises for the remaining lease term at the rent set  
12                    forth in the lease, or

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

17          3.    If the facilities are leased by the new motor vehicle  
18 dealer, within ninety (90) days following the effective date of the  
19 termination, cancellation or nonrenewal the manufacturer will  
20 either:

21          a.    locate a tenant or tenants satisfactory to the lessor,  
22                    who will sublet or assume the balance of the lease,

23          b.    arrange with the lessor for the cancellation of the  
24                    lease without penalty to the dealer, or

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

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

7 a. fails to accept a bona fide offer from a prospective  
8 purchaser, subleases or assignee,

9 b. refuses to execute a settlement agreement with the  
10 lessor if such agreement with the lessor would be  
11 without cost to the dealer, or

12 c. fails to make written request for assistance under  
13 this section within ninety (90) days after the  
14 effective date of the termination, cancellation or  
15 nonrenewal.

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

18 H. In addition to the repurchase requirements set forth in  
19 subsections E and G of this section, in the event the termination or  
20 cancellation is the result of a discontinuance of a product line,  
21 the manufacturer or distributor shall compensate the new motor  
22 vehicle dealer in an amount equivalent to the fair market value of  
23 the terminated franchise as of the date ~~of~~ immediately preceding the  
24 manufacturer's or distributor's announcement or provide the new

1 motor vehicle dealer with a replacement franchise on substantially  
2 similar terms and conditions as those offered to other same line-  
3 make dealers. The dealer may immediately request payment under this  
4 ~~provision~~ section following the announcement in exchange for  
5 cancelling any further franchise rights, except payments owed to the  
6 dealer in the ordinary course of business, or may request payment  
7 under this ~~provision~~ section upon the final termination,  
8 cancellation or nonrenewal of the franchise. In either case,  
9 payment under this ~~provision~~ section shall be made not later than  
10 ninety (90) days after the fair market value is determined. If the  
11 factory and dealer cannot agree on the fair market value of the  
12 terminated franchise or agree to a process to determine the fair  
13 market value, then the factory and dealer shall utilize a neutral  
14 third party mediator to resolve the disagreement.

15 SECTION 8. AMENDATORY 47 O.S. 2021, Section 565.3, is  
16 amended to read as follows:

17 Section 565.3 A. A franchised vehicle dealer proposing a sale,  
18 transfer, or assignment of a franchise agreement or the business and  
19 assets of a dealership or an interest in a dealership to another  
20 person, hereinafter transferee, shall notify the manufacturer or  
21 distributor whose vehicles the dealer is franchised to sell of the  
22 proposed action of the dealer. The manufacturer or distributor may  
23 make written request to the proposed transferee to submit completed  
24 application forms and related information generally utilized by a

1 manufacturer to evaluate such a proposal and a copy of all  
2 agreements related to the proposed sale, transfer, or assignment.

3 B. The approval by the manufacturer or distributor of the sale,  
4 transfer, or assignment shall not be unreasonably withheld unless  
5 the proposed transferee is not of good moral character or fails to  
6 meet the written, reasonable, and uniformly applied requirements of  
7 the manufacturer or distributor relating to prospective franchisees.  
8 Approval of the transfer shall not be made contingent upon the  
9 transferee meeting unreasonable facility requirements or performance  
10 standards different than those contained in the transferor's  
11 franchise agreement, but may be made contingent upon the proposed  
12 transferee meeting reasonable written requirements. The burden of  
13 proof shall be upon the manufacturer or distributor to show good  
14 cause existed to withhold approval. The manufacturer or distributor  
15 that has made such a determination shall send a letter by certified  
16 mail to the dealer and the applicant of its refusal to approve the  
17 proposal, which shall include a statement of the specific grounds  
18 for refusal, within sixty (60) days after the later of:

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

21 2. Receipt by the manufacturer or distributor of the  
22 information requested from the proposed transferee pursuant to  
23 subsection A of this section if the manufacturer or distributor has  
24

1 requested such information within fifteen (15) days of receipt of  
2 written notice of the proposed sale, transfer, or assignment.

3 C. Failure of the manufacturer or distributor to send its  
4 notice of refusal pursuant to subsection B of this section shall  
5 mean that the application for the proposed sale, transfer, or  
6 assignment is approved.

7 D. If the proposed sale, transfer or assignment is to an  
8 existing owner's family member or other existing owner, then the  
9 manufacturer or distributor's evaluation of such proposal is limited  
10 to the written, reasonable and uniformly applied requirements of the  
11 manufacturer or distributor relating to good moral character and  
12 financial qualifications.

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



1 manufacturer or distributor relating to prospective franchisees ~~or~~  
2 ~~that the facility requirements are not reasonable based on the~~  
3 ~~reasons set forth in subparagraph d of paragraph 9 of Section 565 of~~  
4 ~~this title.~~

5 SECTION 9. AMENDATORY 47 O.S. 2021, Section 572, is  
6 amended to read as follows:

7 Section 572. Any action brought to recover any damages that may  
8 be sustained by any motor vehicle dealer may be brought in the  
9 county in which said dealer is located ~~and in addition to the action~~  
10 ~~for damages he shall be entitled to sue for and have injunctive~~  
11 ~~relief against the threatened loss, damage or injury to his business~~  
12 ~~or property because of any violation of Sections 565 through 566 and~~  
13 ~~579 of this title or the threatened cancellation, termination or~~  
14 ~~failure to renew any franchise agreement between any factory and~~  
15 ~~said dealer, and the court may grant such injunctive relief,~~  
16 ~~including temporary restraining orders, as it deems just and~~  
17 ~~proper.~~ Notwithstanding the existence of any adequate remedy at  
18 law, a dealer is authorized to bring an action in the county in  
19 which said dealer is located for the grant, upon a hearing and for  
20 cause shown, of a temporary or permanent injunction, or both,  
21 restraining any person from acting as a licensee under the terms of  
22 Sections 561 through 567, 572, 578.1, 579 and 579.1 of this title  
23 without being properly licensed hereunder, or from violating or  
24 continuing to violate any of the provisions of Sections 561 through

1 567, 572, 578.1, 579 and 579.1 of this title, or from failing or  
2 refusing to comply with the requirements of this law or any rule or  
3 regulation adopted hereunder. Such injunction shall be issued  
4 without bond. A single act in violation of the provisions of  
5 Sections 561 through 567, 572, 578.1, 579 and 579.1 of this  
6 title shall be sufficient to authorize the issuance of an  
7 injunction. Upon a prima facie showing by the person bringing the  
8 action that such a violation by the licensee has occurred, the  
9 burden of proof shall then be upon the licensee to prove that such  
10 violation or unfair practice did not occur. In any action brought  
11 under this section, the court shall award attorney fees and costs to  
12 a dealer who prevails, notwithstanding any other provisions of law,  
13 and in addition to any other remedy which may be afforded under any  
14 other statute of this state.

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

17 Section 578.1 A. Notwithstanding the terms of a franchise and  
18 notwithstanding the terms of a waiver, if a factory intends or  
19 proposes to enter into a franchise to establish an additional new  
20 motor vehicle dealer or to relocate an existing new motor vehicle  
21 dealer within or into a relevant market area in which the same line-  
22 make of motor vehicle is currently represented, the factory shall  
23 provide at least sixty (60) days advance written notice to the  
24 Commission and to each new motor vehicle dealer of the same line-

1 make in the relevant market area, of the intention of the factory to  
2 establish an additional new motor vehicle dealer or to relocate an  
3 existing new motor vehicle dealer within or into the relevant market  
4 area. For purposes of this section, the "relevant market area"  
5 means the area within a radius of fifteen (15) miles ~~of~~ around the  
6 site of the proposed new motor vehicle dealership measured from the  
7 property boundary. The notice shall be sent by certified mail to  
8 each party and shall include the following information:

- 9 1. The specific location at which the additional or relocated  
10 motor vehicle dealer will be established;
- 11 2. The date on or after which the additional or relocated motor  
12 vehicle intends to commence business at the proposed location;
- 13 3. The identity of all motor vehicle dealers who are franchised  
14 to sell the same line-make vehicles as the proposed dealer and who  
15 have licensed locations within the relevant market area;
- 16 4. The names and addresses of the person intended to be  
17 franchised as the proposed additional or relocated motor vehicle  
18 dealership, the principal investors in the proposed additional or  
19 relocated motor vehicle dealership, and the proposed dealer operator  
20 of the proposed additional or relocated motor vehicle dealership;  
21 and
- 22 5. The specific grounds or reasons for the proposed  
23 establishment of an additional motor vehicle dealer or relocation of  
24 an existing dealer.

1 B. This section does not apply:

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

6 2. To a proposed additional new motor vehicle dealer which is  
7 to be established at or within two (2) miles of a location at which  
8 a former licensed new motor vehicle dealer for the same line-make of  
9 new motor vehicle had ceased operating within the previous two (2)  
10 years;

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

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

18 C. Within thirty (30) days after receipt of the notice, or  
19 within thirty (30) days after the end of an appeal procedure  
20 provided by the factory, whichever is greater, a new motor vehicle  
21 dealer so notified or entitled to notice may file a petition with  
22 the Commission protesting the proposed establishment or relocation.  
23 The petition shall contain a short statement setting forth the  
24 reasons for the objection of the dealer to the proposed

1 establishment or relocation. Upon filing of a protest, the  
2 Commission shall promptly notify the factory that a timely protest  
3 has been filed and shall schedule a hearing, which shall be held  
4 within one hundred twenty (120) days of the filing of a timely  
5 protest. The factory shall not establish or relocate the new motor  
6 vehicle dealer until the Commission has held a hearing and has  
7 determined that there is good cause for permitting the proposed  
8 establishment or relocation. When more than one protest is filed  
9 against the establishment or relocation of the same dealer, the  
10 Commission shall consolidate the hearings to expedite disposition of  
11 the matter.

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

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

19 Section 580.2 During the time a person is operating a motor  
20 vehicle with the express or implied permission of ~~an authorized~~ a  
21 new motor vehicle dealer, as defined in Section 562 of this title,  
22 such person's motor vehicle liability policy shall have primary  
23 coverage with the motor vehicle liability policy of the dealer  
24 having secondary coverage until the vehicle is returned. As used

1 herein, "motor vehicle liability policy" means motor vehicle  
2 insurance against legal liability for the death, injury or  
3 disability of any human being, or for damage to real or personal  
4 property. The motor vehicle liability policy of any person who has  
5 been loaned a vehicle by a new motor vehicle dealer pursuant to the  
6 terms of this section shall provide primary coverage for any death  
7 or injury of any human being or for any real or personal property  
8 damage, including damage to the loaned vehicle, with the motor  
9 vehicle insurance policy of the dealer having secondary coverage for  
10 any death or injury of any human being or for any real or personal  
11 property damage, including damage to the loaned vehicle. The change  
12 in financial responsibility shall be evidenced by a release signed  
13 by the person operating the vehicle with the express or implied  
14 permission of the dealer with the release to be returned to the  
15 person upon the return of the motor vehicle to the dealer. The  
16 motor vehicle liability policy of such person shall meet the minimum  
17 financial responsibility requirements found in Section 7-324 of this  
18 title.

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

22 SECTION 12. This act shall become effective November 1, 2022.  
23

24 58-2-8442 JBH 01/17/22