

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE DISMANTLER, AND  
MANUFACTURED HOUSING COMMISSION  
CHAPTER 10. USED MOTOR VEHICLE DEALERS**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. Licensing Qualifications, Procedures and Fees

765:10-1-6 [AMENDED]

765:10-1-6.1 [AMENDED]

Subchapter 3 Operation

765:10-3-1 [AMENDED]

765:10-3-5 [AMENDED]

**SUMMARY:**

The proposed rule amendments remove the term "shall", change the number of digits of license numbers and address vehicle safety standards.

**AUTHORITY:**

Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission;

47 O.S. Section 582(E)(1);

75 O.S. Section 583 B.3.;

75 O.S. Section 302 et.seq

**COMMENT PERIOD:**

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13<sup>th</sup>, Suite 330, Oklahoma City, Oklahoma 73103, by February 17<sup>th</sup>, 2023.

**PUBLIC HEARING:**

The public hearing will be held on Tuesday, March 14<sup>th</sup>, 2023, at 10:30 AM, at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13<sup>th</sup>, Suite 100, Oklahoma City, Oklahoma.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

The Used Motor Vehicle Dismantler, and Manufactured Housing Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to John W. Maile, at the above address, before the close of the comment period on February 17<sup>th</sup>, 2023.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained for review at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13<sup>th</sup>, Suite 330, Oklahoma City, Oklahoma.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and be available after February 1<sup>st</sup>, 2023, at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission.

**CONTACT PERSON:**

John W. Maile, Director, Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421, NW 13<sup>th</sup>, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION  
CHAPTER 10. USED MOTOR VEHICLE DEALERS**

**SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES**

**765:10-1-1. Purpose**

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S. Section 250 et seq. and 47 O.S. Section 582 (E). This Chapter will provide a description of the qualifications for obtaining a used motor vehicle dealer's license, operation under the license, and the grounds and procedures for denial, suspension, or revocation of a used motor vehicle dealer's license or imposition of a fine.

**765:10-1-2. Fees**

The fees required for an initial application, renewal, and additional location for a used motor vehicle dealer's license are recited in 47 O.S. Section 583. A fee will be returned to the applicant in the event the license applied for is denied.

**765:10-1-3. Place of business**

(a) An applicant must have an established place of business. An established place of business means a location which includes at a minimum:

- (1) a display area for vehicle(s) that are for retail easily accessible, and readily distinguishable from vehicles parked on the premises for purposes other than for sale of the vehicle by the licensed dealer,
- (2) sufficient parking for the public,
- (3) an office for conducting business where the books, records and files are kept,
- (4) an office which is a building or is a separate room within a building on the premises devoted exclusively to the operation of the used motor vehicle business. that is considered a permanent structure with access to a restroom for the public. Such place of business shall not include an occupied residence and shall not include the use of vacant lots, tents, temporary stands, or other temporary office facilities.
- (5) place of business shall meet all zoning, occupancy, and other requirements of the appropriate local government, and shall be regularly occupied by a person, firm, or corporation engaged in the business of selling used motor vehicles,
- (6) a sign, not less than thirty-two (32) square feet in size, unless restricted to a smaller size by the applicable zoning regulations of the governmental body in which the business is located. The sign shall not be a banner or portable sign, but must be permanently affixed to the property and shall have permanently affixed legible letters of a size not smaller than six (6) inches in height. The sign and letters thereof shall be visible from the roadway nearest to the entrance of the place of business, and
- (7) a business telephone, listed with directory assistance and usable at the

place of business. Said telephone may include a cellular or digital telephone listed and usable at the place of business,

(b) An applicant may apply for a used motor vehicle dealer's license at the same address or location as another applicant or licensee. In addition to the requirements listed in subparagraph (a) above, such applicant shall be required to show that the location is of sufficient size, space and configuration for the operation of the dealership separate and apart from any other dealership at the same address or physical location without confusion by those with whom the applicant or licensee will be dealing as to with which licensee they are dealing.

(c) In the event an applicant is granted a license at the same address or location as another licensee, each licensee shall keep their vehicles segregated from those of the other licensee.

(d) It shall be solely within the discretion of the Commission whether it is appropriate that more than one applicant shall be licensed at the same location or address. If it appears after licensing that the licensees do not or cannot continue to fulfill the terms and conditions of licensing, the license of the offending licensee may be suspended or revoked.

(e) An applicant for a used motor vehicle dealer's license for the purpose of conducting a classic or antique automobile auction may apply for a license at a location which the applicant will use to conduct the auction, even if the location is temporary, or to be used only for the purpose of that auction. The applicant shall provide information satisfactory to the Commission relating to the applicant's permanent business address and for purpose of service of summons or other legal notice. The Commission shall not approve any other type of application for a temporary business location.

#### **765:10-1-4. Applicant**

(a) **Information required.** An applicant shall provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a license. The information shall include:

- (1) Information relating to the applicant's financial standing,
- (2) Information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and his business history,
- (3) Whether the applicant will be engaged in the pursuit, avocation, or business for which a license is applied,
- (4) Whether the applicant will devote full or part time to the business,
- (5) Whether the applicant is able to properly conduct the business for which the license is applied, and
- (6) Any other pertinent information consistent with the safeguarding of the public interest and welfare.

(b) **Application required.** Applications for license shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants. The applications shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the license.

#### **765:10-1-5. Bond and insurance**

(a) **Dealer bond.** Each applicant for a used motor vehicle dealer's license, used motor vehicle auction or for the purpose of conducting a used motor vehicle business which will consist primarily of non-auction consignment sales shall procure and file with the Commission a good and sufficient bond in the amount required by law. The bond shall be approved as to form by the Attorney General. The bond form shall contain provisions relating to the bond amount, parties responsible for payment of bond claims, parties who may make claims on bonds and priorities of claimants, if applicable.

(b) **Liability insurance.** Each applicant for a used motor vehicle dealer's license shall be required to furnish and in the event a license is issued, keep in force, a minimum of Twenty-five Thousand Dollars (\$25,000) single limit liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways of Oklahoma in accordance with the financial responsibility laws of the State of Oklahoma. The insurance as required by this section shall be maintained throughout the period of licensure. Should the insurance be cancelled or expire for any reason, the license shall be revoked as of the date of cancellation or expiration unless new insurance is furnished prior to such date.

#### **765:10-1-6. Issuance of license**

(a) **Name.** A used motor vehicle dealer's license will be issued in the legal name of the individual proprietorship, partnership, corporation, limited liability company or other legal entity, as identified on the application for dealer license. A license shall not be issued in a name which does not reflect the nature of the licensee's business nor any name which is misleading or confusing to those with whom the licensee deals. For example, a dealer shall not use the term "leasing" in his name if the dealer's business does not include that activity.

(b) **Certificate.** A used motor vehicle dealer's license shall consisting of a signed certificate bearing the official seal of the Commission and shall specifying the name and location of the place of business and assigned dealer number, ~~which shall~~ is to be posted in a conspicuous place in the dealer's place or places of business. The used motor vehicle dealer's license number will be prefixed with UD, followed by a ~~four~~ five digit number and then the current year of license (UD-00000-900).

(c) **Titles.** The valid used motor vehicle dealer's license permits the dealer to transfer and assign titles and purchase and sell used motor vehicles without paying excise tax.

(d) **Card.** The dealer or designated managing officer will receive a gratis salesman's identification card which shall be carried upon his person at all times while acting as a used motor vehicle dealer.

(e) **Beginning business.** No applicant for a used motor vehicle dealer's license shall can conduct business until such time as the Commission has issued him a license.

#### **765:10-1-6.1. Used motor vehicle dealer plates**

(a) The issuance of used motor vehicle dealer plates by the Oklahoma Tax Commission shall be subject to the verification by this Commission that the applicant is licensed as a used motor vehicle dealer and that the number of plates requested is appropriate for the

size and nature of the licensee's business.

(b) A metal dealer's plates may be used for demonstrating, transporting or any other normal business of a dealer. Normal business of a dealer shall include use of the dealer plate on a vehicle regularly driven by the dealer or the dealer's spouse or any licensed salesperson, provided the title to the vehicle driven is in the name of the dealer's licensed used motor vehicle dealership on the front of the title or by assignment.

#### **765:10-1-6.2. Education program**

The dealer principal, general manager or person in charge of the operation of the used motor vehicle dealer's business shall attend an Education Program presented by Commission personnel before beginning operation of the business. Used motor vehicle salesmen or office personnel may attend said program as space allows. The Education Program shall be without cost to any participant.

#### **765:10-1-7. Renewal of license**

All bonds and licenses issued under the provisions of the Commission's statutory authority shall expire on the 31st day of December of the odd numbered year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November of each odd numbered year, and licenses shall be issued by January 10th of the following year. If application has not been made for renewal of license, such license shall expire on December 31st, and it shall be illegal for any person to represent himself and act as a dealer thereafter.

#### **765:10-1-8. Changes**

(a) **Ownership.** A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall require a new application and approval by the Commission before the business may begin operation.

(b) **Notification.** A change of ownership or any other change, such as change of name or address, which makes Commission records no longer accurate must be reported to the Commission immediately in writing on forms prescribed by the Commission for approval by the Commission. The dealership must meet all the requirements as prescribed for licensing. The Commission may revoke or suspend a license after it has been granted for change of condition resulting in failure to maintain the qualifications for license. Failure to complete the requirements for licensing at the new location within thirty (30) days shall result in suspension of the dealer's license until the licensing requirements are met.

### **SUBCHAPTER 3. OPERATION**

#### **765:10-3-1. Forms required**

(a) **Retail Sales Forms.** The following forms shall be required in the sale of a used motor vehicle by a used motor vehicle dealer to anyone other than a licensed dealer:

- (1) Sales contract or bill of sale,
- (2) Odometer statement,
- (3) Federal Trade Commission Buyer's Guide conforming to FTC and state standards,
- (4) Written notice of thirty (30) day title-transfer requirement and receipt for delivery of certificate of title to buyer,
- (5) Used motor vehicle dealer's temporary tag,
- (6) Condition of sale:
  - (A) warranty, or
  - (B) vehicle service contract, or
  - (C) warranty disclaimer,
- (7) Finance or security agreement, if applicable, and
- (8) Consignment agreement, if applicable,
- (9) Spot delivery form, if applicable,
- (10) 'We Owe' form, if applicable,
- (11) Any other form which affects the rights of either party.

(b) **Dealer to dealer forms.** The following forms shall be required in dealer to dealer transactions:

- (1) Bill of sale, and
- (2) Odometer statement, if required.

(c) **Approval.** All forms must be approved by the Commission. The content and forms to be used shall be filed thirty (30) days prior to use, and if not rejected in thirty (30) days from the filing date, the forms will be conditionally approved.

(d) **Standards.** The forms required shall contain substantially the following information:

(1) **Sales contract or bill of sale.**

(A) The sales contract or bill of sale shall state the names of the parties, the make, model, tag number and vehicle identification number (VIN) of the vehicle subject to the transaction, a statement of the selling amount, a description of the vehicle traded in, if any, and the consideration given therefore, and the statement referring to the FTC Buyer's Guide as required by federal law or rule, and proper signatures of the parties.

(B) Said form shall also contain or have attached a statement of any terms that create any contingencies in the completion of the contract, including contingencies relating to financing, whether by the dealer or a third party, and any limitations to which the contingencies may be subject.

(C) Said form shall also state, in clearly understandable terms, the type of title the purchaser shall receive, whether it be an "original" green title; an insurance loss dated title; a title with a theft or flood damage notation; or a rebuilt, salvage or junk title, or any other disclosures or discrepancies noted on the face of the title, including special notations regarding mileage or odometer readings, but shall not include a "repossessed" or "repo" title, together with some form of written acknowledgment by the purchaser that the purchaser is aware of the type of title to be received. Failure to make

said disclosure shall create a presumption that the type of title to be received shall be an "original" green title without discrepancies of any sort.

(D) Said form shall not contain statements such as "trade in value does not reflect actual cash value of trade in" or any language that suggests the amounts stated are not the true value agreed upon by the parties.

(2) **Odometer statement.** The odometer statement must conform to the requirements of federal and state law.

(3) **Federal Trade Commission Buyer's Guide.**

(A) From and after May 9, 1985, in all sales to consumers, as defined in Title 16 Code of Federal Regulations Section 455.1(4), it shall be required that dealers display and complete the "Buyer's Guide" form required by the Federal Trade Commission. Display and completion of the "Buyer's Guide" as required by Federal Trade Commission Used Motor Vehicle Trade Regulation Rule shall be deemed compliance with this rule.

(B) The "Buyer's Guide" required herein shall not be used in lieu of warranty disclaimer forms to disclaim warranties, actual or implied. In order to disclaim any warranties, a separate warranty disclaimer form must be used.

(C) From and after May 9, 1985, conditions of sale forms must include the following language, conspicuously written on that form: "The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale." Condition of sale contracts which do not contain this language shall not be approved by this Commission. Nothing in this rule shall be construed to make any additional informational or substantive requirements as to warranties, implied warranties or service contracts beyond that presently required by the Used Motor Vehicle Trade Regulation Rules or state law.

(4) **Title, tax stamp and tax transfer notice requirement.** It ~~is shall be~~ the duty of every person licensed to sell new or used motor vehicles to advise each purchaser in writing about his title requirements and payment of any taxes due. It ~~shall be~~ is the duty of the selling dealer to affix the applicable used motor vehicle dealer's tax stamp in the appropriate place on the assignment or re-assignment area of the certificate of title. Dealers failing to comply with provisions of this section ~~shall be~~ is responsible for all taxes due on such sales or on such vehicles.

(5) If a prospective purchaser makes a deposit of anything of value to obtain the option to complete a purchase (of a used motor vehicle) in the future, the dealer shall acknowledge the deposit in writing, the time period for which the option to purchase is valid, whether the deposit is refundable in whole or in part, and the conditions, if any under which the deposit may be refunded. The deposit shall be deemed refundable unless it is clearly stated in writing that the deposit or a portion thereof is non-refundable.

(e) **Used motor vehicle dealer's temporary tags.** Misuse of the used motor vehicle



dealer's temporary tag may be grounds for the assessment of a fine or, suspension or revocation of the used motor vehicle dealer's license.

**765:10-3-2. Consignment sales**

(a) **Consignment.** A used motor vehicle dealer, whether acting as principal or agent, or by power of attorney, shall be responsible for complying with 765:10-3-1 et seq. with regard to all vehicles purchased, sold, or transferred by the dealer whether or not any other party has any interest in the vehicle being purchased, sold, or transferred. The dealer need not disclose to a potential purchaser if the vehicle offered for sale has been consigned to the dealer by an individual. The individual consigning the vehicle shall provide a copy of the certificate of title to the dealer-consignee at the time of the execution of the consignment agreement. The certificate of title of a used motor vehicle owned by an individual consigned to a used motor vehicle dealer for sale by that dealer shall be assigned by the individual to the dealer, and shall be assigned to the purchaser contemporaneously with the transfer of funds from the buyer to the dealer, provided a consignment form approved by this Commission is used in the consignment transaction, and any other state and federal forms required are properly executed at the time of sale by the dealer as agent for the consignor. A used motor vehicle dealer's tax stamp shall be required in the assignment of the certificate of title from the dealer to the purchaser. The consignor shall have primary responsibility for the truthfulness of the information concerning the vehicle unless the dealer willfully, knowingly, or negligently with reckless disregard of the true facts, misrepresents or misstates the information on the forms and/or the certificate of title. The dealer, by acting as agent for the consignor, is deemed to be a transferor with regard to 49 U.S.C. Section 32701 et. seq. (Federal Odometer Act). The dealer and the consignor shall both be responsible to the consignor's lender, if any, to satisfy the lender's interest in the vehicle. A used motor vehicle dealer who has taken a used motor vehicle on consignment from an individual seller shall not consign the vehicle for sale to another used motor vehicle dealer without the knowledge and written consent of the individual seller and the execution of a consignment form among the three parties.

(b) **Consignments between dealers.** A used motor vehicle dealer who takes another used motor vehicle dealer's vehicle on consignment to sell the vehicle at the first dealer's licensed location shall be responsible for complying with 765:10-3-1 et. seq. in all particulars, including execution of all forms required for the transaction. There shall be a written document of consignment of the vehicle from the consigning dealer to the selling dealer which may set forth the benefits, responsibilities, and duties of each dealer arising from the consignment transaction, and shall include a statement that the vehicle is subject to a lender's interest or that it is not. Both dealers shall be responsible to the lender to satisfy the lender's interest after the sale of the vehicle. The certificate of title to the vehicle consigned and sold shall be assigned from the consigning dealer to the selling dealer at the time of the sale of the vehicle and the certificate of title shall then be re-assigned to the purchaser. The selling dealer shall be responsible to the purchaser for any liability which may arise from or because of the sale of the vehicle, regardless of any statements to the contrary in the consignment form executed between

the dealers. A used motor vehicle dealer's tax stamp shall be required in both transactions.

(c) **Consignments at auction.** In lieu of the procedure set forth in (a) and (b) above, a used motor vehicle dealer acting as an auction shall follow the procedure in this subsection. Sales by used motor vehicle dealers shall be evidenced by execution of an auction form approved by the Commission. An auction may provide by its own rules, the terms and conditions of sale and purchase between the consigner and the buyer. Said rules shall apply in all instances except where said rules are in conflict with state or federal statute or the Rules of this Commission. An auction, by acting as agent for the consignor, is not deemed to be a transferor with regard to Motor Vehicle Information and Cost Saving Act 15 U.S.C. Section 1981 et seq. (Federal Odometer Act.) A used motor vehicle dealer consigning a vehicle for sale at auction shall be responsible for complying with all record keeping requirements under the Rules of this Commission.

#### **765:10-3-3. Records**

(a) Each dealer shall keep for a period of three (3) years from the date of sale (or as required by any other federal, state, or local regulations), a record of the purchase and sale of each motor vehicle he buys or sells, which shall show the name of the seller or buyer as the case may be, and a complete description of the vehicle purchased or sold, and which shall include a copy of the front and back of the completely assigned certificate of title to each vehicle sold, and such other information as the Commission may prescribe. A public auction which allows non-dealers to sell or purchase vehicles at its auction shall also be required to keep a copy of the front and back of the certificate of title to each vehicle sold or purchased by a non-dealer. The records and title of vehicles shall be available upon request to authorized agents or employees of the Commission or any law enforcement officer of the State of Oklahoma. If it is determined that a licensee has knowingly provided false or misleading information when requested to provide records, the licensee may be subjected to any appropriate sanction authorized by rule or statute.

(b) Records shall include but not be limited to bills of purchase or sale, odometer statements, invoices of repair or expense, certificates of title, and accounting records for the operation of the business, including, but not limited to, checking accounts, checks, drafts, and/or financing agreements for inventory.

#### **765:10-3-4. Disclosures**

Any disclosures material to the final terms of the contract shall be disclosed prior to or during negotiation of the contract.

#### **765:10-3-5. Prohibited Acts**

(a) A used motor vehicle dealer shall not solicit or offer compensation for referrals of prospective buyers from used motor vehicle salespersons employed by another used motor vehicle dealer.

(b) A used motor vehicle dealer shall not fail to execute any of the forms required in a used motor vehicle transaction. A used motor vehicle dealer who fails to execute the

required forms or who violates the terms of any contractual obligation in the sales transaction shall be subject to the appropriate fine for violation of the Rules of the Commission.

(c) A used motor vehicle dealer shall not display or offer a used motor vehicle for sale at any location, other than the location for which the dealer has been issued a license or at the location of another licensed used motor vehicle dealer by consignment. Provided, this prohibition shall not restrict a dealer from taking a vehicle to an identified prospective buyer for inspection and demonstration for the convenience of the parties.

(d) A used motor vehicle dealer shall not offer a used motor vehicle for sale or lease to option to purchase on Sundays, unless the dealer is conducting a classic, antique, or special interest automobile auction.

(e) A used motor vehicle dealer shall not allow an unlicensed individual or a salesperson to act as a dealer using the dealer's license, or allow any unlicensed person to use the dealer's name, license, or dealer number for any prerogative reserved to a dealer.

(f) A used motor vehicle dealer may not offer for sale or sell a used motor vehicle to the public which does not meet Oklahoma vehicle safety standards or does not have the appropriate federally mandated smog or emission equipment in working condition. A vehicle without the federally mandated smog or emissions equipment may be sold at a dealer only auction with disclosure that the emission equipment is absent or inoperable.

## **SUBCHAPTER 5. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE**

### **765:10-5-1. Grounds**

(a) The Commission may deny an application for a license, or revoke or suspend a license after it has been granted for any of the reasons listed in 47 O.S. Sections 584 (1) through (7); for violation of any statute or regulation relating to the purchase, sale, display for sale, or transfer of a used motor vehicle; or if it is determined that the license is being or has been issued for the benefit of a person who would not or could not qualify for the license in his or her own right.

(b) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

### **765:10-5-2. Prohibition**

A person whose license has been revoked or denied or whose license was surrendered in lieu of revocation or under circumstances such that said license could have been revoked, shall not have a financial interest of any kind in a used motor vehicle business, nor shall that person participate in any way, including in an advisory position, in the operation of a used motor vehicle business. The Commission may, in addition, revoke or suspend a used motor vehicle dealer's license for employing unlicensed persons as salesmen.