

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE DISMANTLER, AND
MANUFACTURED HOUSING COMMISSION
CHAPTER 15. USED MOTOR VEHICLE SALESPERSONS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Certificate of Registration and Qualifications, Procedures and Fees

765:15-1-5 [AMENDED]

765:15-1-6 [AMENDED]

SUMMARY:

The proposed rules clarify temporary certificate of registration issuance except in the case of applicant has been convicted of a crime that relates to the occupation of a used motor vehicle dealer and pose a reasonable threat to public safety.

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 13th, Suite 330, Oklahoma City, Oklahoma 73103, by February 17th, 2023.

PUBLIC HEARING:

The public hearing will be held on Tuesday, March 14th, 2023, at 10:30 AM, at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, 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 17th, 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 13th, Suite 330, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after February 1st, 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 13th, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION
CHAPTER 15. USED MOTOR VEHICLE SALESPERSONS**

**SUBCHAPTER 1. CERTIFICATE OF REGISTRATION QUALIFICATIONS,
PROCEDURES AND FEES**

765:15-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et seq 47 O.S. Section 582 (E), and 47 O.S. 583.1 A (2019 Supp). This Chapter will provide a description of the qualifications for obtaining a used motor vehicle salesperson's certificate of registration, authority of a salesperson, and the grounds and procedure for assessment of a fine or denial, suspension, or revocation of a used motor vehicle salesperson's certificate of registration.

765:15-1-2. Fees

The fees required for an application or renewal of used motor vehicle salesperson's certificate of registration are recited in 47 O.S. Section 583.1. A fee will be returned to the applicant in the event the certificate of registration is denied.

765:15-1-3. Applicant

(a) **Activities requiring certificate of registration.** A used motor vehicle salesperson is anyone who:

- (1) receives gain or compensation of any kind, directly or indirectly, regularly or occasionally for, or negotiates for, sale or trade of a specified used motor vehicle for a specified used motor vehicle dealer, or
- (2) operates as a broker only for a specified used motor vehicle dealer, or
- (3) receives compensation for referral of a prospective buyer to his employer or acts on behalf of the dealer in the purchase or sale of a used motor vehicle, or
- (4) is authorized to transfer and/or sign titles for the dealership, or
- (5) displays or offers used motor vehicles for sale for the dealership at a licensed location,
- (6) acts in the capacity of sales manager or finance and insurance manager or acts in any capacity as part of the sales process,
- (7) does not otherwise come under the definition of a wholesale used motor vehicle dealer and/or is not required to obtain a license as a wholesale used motor vehicle dealer, but is authorized by a person licensed by the Oklahoma Motor Vehicle Commission to sell new or unused motor vehicles,(franchise dealer) to purchase and sell used motor vehicles without direct supervision by the "franchise dealer," whether at auction or otherwise, to-wit: a "wholesaler" or individual who pays the "franchise dealer" a draft or check fee for vehicles purchased using the "franchise dealer's" used motor vehicle dealer's license; or who is required to compensate the "franchise dealer" for any loss arising from the sale of a vehicle; or who in any manner operates independently of the ordinary business of the "franchise dealer."

(b) **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 certificate of registration. The information shall include:

- (1) information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and his business history,
- (2) whether the applicant will devote full or part time to the business, and
- (3) any other pertinent information consistent with the safeguarding of the public interest and welfare.

(c) **Application required.** Applications for certificate of registration 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 certificate of registration.

(d) **Activity not requiring a certificate of registration.** A dealer, by written instrument, may authorize another licensed individual or dealer to purchase vehicles for the dealer. Said authorization shall not authorize the individual to conduct any other business for the dealer or represent the dealer in any other manner.

(e) **Activity not authorized.** A salesperson's certificate of registration shall not authorize the person to refer a prospective customer or consumer to another used motor vehicle dealer and obtain compensation therefor without an employment relationship with the other used motor vehicle dealer.

765:15-1-5. Issuance of certificate of registration

(a) **Prerequisite.** A certificate of registration for a used motor vehicle salesperson will not be issued, renewed, or endorsed until the employing dealer is licensed and has certified that the applicant for said certificate is in his employ. Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are registered. The dealer shall be required to pay for certificates of registration for its salespersons but may do so on a reimbursable basis, or any other plan satisfactory to its dealership organization. All salespersons certificates of registration will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain certificates of registration have done so.

(b) **Temporary certificate of registration.**

(1) A temporary salesperson's certificate of registration, salesperson's renewal, or reissue of a salesperson's certificate shall be deemed to have been issued when the appropriate application and fee have been properly addressed and mailed to the Commission, except as follows:

- (A) in the case of incomplete application,
- (B) in the case of proper fee not being submitted,
- (C) in the case of applicant's having been previously denied a license or certificate of registration with this Commission, or
- (D) in the case of applicant's having been convicted of a crime ~~involving moral turpitude (act or behavior that gravely violates accepted moral standards of community)~~, that substantially relates to the occupation of a used motor vehicle dealer and poses a reasonable threat to public safety, committed any unlawful act which resulted in revocation of similar license

in another state, or committed a fraudulent act in selling or purchasing motor vehicles in such a manner as to cause injury to the public.

(2) All temporary salesperson certificate of registration applications shall be submitted for approval to issue a permanent certificate of registration at the first monthly Commission meeting following receipt of a completed application.

(c) **Permanent certificate of registration.** A permanent salesperson's certificate shall be issued after approval of the applicant by the Commission. A salesperson's certificate shall consist of an identification card bearing the name, name of employer, address, signature of the Executive Director, and the dealer's license number ~~prefixed with UD (UD-0000)~~. The card shall be carried upon his person at all times when acting as a used motor vehicle salesperson.

765:15-1-6. Renewal of certificate of registration

All certificates shall expire on the 31st day of December of each odd numbered year following the date of issue and shall be nontransferable.

765:15-1-7. Changes

(a) **Employer.** If the salesperson changes employer, the certificate holder shall immediately mail the certificate of registration to the Commission for its endorsement of the change of employer. The holder shall keep his certificate on his person while engaged in his business and shall display it upon request; however, there shall be no penalty for not having the certificate upon his person when he has submitted it to the Commission for its endorsement of a change of employer.

(b) **Notice.** The dealer will notify the Commission in writing when a salesperson's employment is terminated. The dealer may be liable for actions of the salesperson until proper notice is filed with the Commission.

(c) **Salesperson's card.** Each salesperson shall surrender his identification card to the Commission for endorsement of change of employer, before again engaging in the business as a salesperson for another used motor vehicle dealer or as a used motor vehicle dealer.

SUBCHAPTER 3. AUTHORITY OF SALESPERSONS

765:15-3-1. Authority

(a) **Salesperson only.** A used motor vehicle salesperson's certificate of registration shall permit the holder to engage in the activities of a used motor vehicle salesperson. A salesperson's certificate does not entitle the holder to perform as a dealer as defined in 47 O.S. Section 581 (4). A used motor vehicle salesperson's license does not entitle a person to separately own vehicles for sale or any interest in the vehicles or dealer business without first qualifying as a partner, corporate member, or part owner of the dealership and meeting the qualifications of a dealer as prescribed in 47 O.S. Sections 581-583.

(b) **One card only.** A salesperson may not hold more than one used motor vehicle salesperson's certificate at any one time or be employed by or sell for any dealer other than the dealer and at the address designated on the salesperson's certificate, with the

exception that the licensed dealer has more than one location. Then the licensed dealer and salesperson may sell on each location properly licensed as additional locations.

(c) **Restrictions.** A salesperson's certificate shall not be issued for an individual who is not actively engaged in the activities of a used motor vehicle salesperson, nor shall it be issued for the purpose of allowing an individual to operate a vehicle with a used motor vehicle dealer's plate for any use not benefitting the dealer's business.

SUBCHAPTER 5. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCAION OF CERTIFICATE OF REGISTRATION

765:15-5-1. Grounds

(a) The Commission may deny an application for, certificate of registration, or suspend or revoke a certificate of registration after it has been granted 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 certificate of registration is being or has been issued for the benefit of a person who would not or could not qualify for the certificate in his or her own right and;

(b) On satisfactory proof of unfitness of the applicant or the holder of the certificate of registration under the standards established under Title 47 Oklahoma Statutes § 581 et. seq. or the Rules of the Commission,

(c) For fraudulent or material misstatements made by the applicant in any application for license or certificate of registration,

(d) For any willful failure to comply with, or continued or flagrant violation of, any provision of Title 47 Oklahoma Statutes § 581 et. seq. or with any rule promulgated by the Commission,

(e) A change of condition after a certificate is issued resulting in failure to maintain the qualifications for license,

(f) Conviction of a crime involving moral turpitude or any felony which in the opinion of the Commission may have a direct bearing on the ability of the applicant or holder to act as a used motor vehicle salesperson without endangering those with whom the applicant or holder may deal in the conducting of the duties of a used motor vehicle salesperson.

(g) Committing any act within the preceding ten (10) years, which resulted in the revocation of a similar license in another state,

(h) Engaging in business under a past or present license or certificate of registration in such a manner as to cause injury to the public or those with whom the holder is dealing,

(i) 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 certificate is being or has been issued for the benefit of a person who would not or could not qualify for the certificate in his or her own right.

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

765:15-5-2. Prohibitions

A person whose certificate of registration has been revoked or denied or whose certificate was surrendered in lieu of revocation or under circumstances such that said

certificate 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.