

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE DISMANTLER, AND
MANUFACTURED HOUSING COMMISSION
CHAPTER 20. WHOLESALE MOTOR VEHICLE DEALERS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Operation
765:20-3-3 [NEW]

SUMMARY:

The Rules clarifies who may advertise directly to the public.

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 20. WHOLESALE USED MOTOR VEHICLE DEALERS**

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:20-1-1. 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 wholesale used motor vehicle dealer's license, operation under said license, and grounds for assessment of fines, denial, suspension, or revocation of a wholesale used motor vehicle dealer's license.

765:20-1-2. Additional definitions

The following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Approved location" means the physical property location of the wholesale used motor vehicle dealer's office which meets local zoning requirements and other requirements for licensing as a wholesale used motor vehicle dealer's place of business.

"Office" means a permanent room or building separate and apart from any other business, devoted exclusively to the operation of the wholesale used motor vehicle dealer's business.

"Principal business" means the business of wholesaling used motor vehicles with the intent to make a profit, which shall be a primary source of income or support for the wholesale used motor vehicle dealer and shall not include a business which has the primary purpose to avoid payment of excise tax, license fees or other state fees for vehicles used primarily for personal use.

"Records" means 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.

"Sign" means a means of identifying the location of the wholesale used motor vehicle dealer's business.

"Telephone" means any telephonic device for communication which can be business listed in a telephone directory for the telephone service area in which the wholesale used motor vehicle dealer's business is located and may include cell "phones".

"Wholesale used motor vehicle dealer" means any person who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents with option to purchase, or offers or attempts to negotiate a sale or exchange of interest in used motor vehicles exclusively to used motor vehicle dealers, or who is engaged in the business of selling used motor vehicles exclusively to used motor vehicle dealers, whether or not such motor vehicles are owned by such

person, but shall not include any person who is not engaged in such activity as a principal business.

"Zoning or other municipal requirements" means authorization in writing from the local governmental body which has authority to regulate zoning, to conduct the business of wholesale auto sales at the location stated as the wholesale used motor vehicle dealer's place of business on his application for license.

765:20-1-3. Place of business

An applicant must have a place of business, which shall be at an approved location, with an office, sign and telephone, and which meets zoning or other municipal requirements.

765:20-1-4. Applicant

(a) **Duty to license.** Any person who conducts a wholesale used motor vehicle business, who is not a bona fide employee of a used motor vehicle dealer or person licensed by the Oklahoma Motor Vehicle Commission to sell new or unused motor vehicles, and whose association with a used motor vehicle dealer is primarily for purposes of floor planning, financing or drafting on the used motor vehicle dealer shall be required to obtain a wholesale used motor vehicle dealer's license.

(b) **Principal business.** A wholesale used motor vehicle dealer must be engaged in the wholesaling of used motor vehicles as a principal business in order to obtain and maintain his license.

(c) **Resident.** A wholesale used motor vehicle dealer shall be a bona fide resident of the State of Oklahoma as evidenced by an Oklahoma Driver's License or Oklahoma Identification card issued by the Oklahoma Department of Public Safety.

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

765:20-1-5. Bond and insurance

(a) **Bond.** Each applicant for a wholesale used motor vehicle dealer's license 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) **Insurance.** A wholesale used motor vehicle dealer shall maintain a minimum of Twenty-Five Thousand Dollars (\$25,000) single limit liability insurance on all vehicles in accordance with the financial responsibility laws of the State of Oklahoma. Should the insurance be cancelled or expire or otherwise lapse for any reason, the wholesale dealer's license shall be revoked as of the date of cancellation, expiration, or lapse unless new insurance is furnished prior to such date.

765:20-1-6. Issuance of license

(a) **Name and number.** A wholesale used motor vehicle dealer's license will be issued in the legal name of the individual as stated on the application for license. The license number shall be prefixed with a "W", followed by a five digit number and current year of license (W-10001-00).

(b) **One license.** A wholesale used motor vehicle dealer's license shall entitle only one person to act as a wholesale used motor vehicle dealer, regardless of the form of ownership of the business. Only one wallet license card shall be issued per license.

765:20-1-7. 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

765:20-3-1. Forms and transactions

A wholesale used motor vehicle dealer shall not assign a certificate of title to anyone other than a licensed used motor vehicle dealer. A used motor vehicle dealer shall not act as the agent for a wholesale used motor vehicle dealer and an unlicensed person. In every transaction between a wholesale used motor vehicle dealer and a used motor vehicle dealer, there must be evidence of a bona fide sale between the wholesale dealer and the used motor vehicle dealer, such as a bill of sale, check, draft, or other proof of payment, odometer statement, and any other required documents. Any wholesale or used motor vehicle dealer violating the provisions of this paragraph shall be subject to suspension or revocation of license.

765:20-3-2. Records

Every wholesale used motor vehicle dealer shall keep for a period of three (3) years from date of sale (or as required by any other federal, state, or local regulation) a complete record of the purchase and sale of each motor vehicle bought or sold, which shall include the name and address of the seller or buyer, a complete description of the vehicle, a copy of the front and back of the completely assigned certificate of title for

each vehicle sold, and a properly executed odometer statement. The records and titles 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 subject to any appropriate sanction authorized by rule or statute.

765:20-3-3 Advertising

A wholesale used motor vehicle dealer may not advertise in any medium which advertisement may have the effect of causing any person to believe the wholesale dealer's vehicle may be purchased by anyone other than a licensed used motor vehicle dealer.

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

765:20-5-1. 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.
- (c) The Commission shall revoke the license of a wholesale used motor vehicle dealer who sells a used motor vehicle to someone other than a licensed used motor vehicle dealer.